

OFFICE OF THE COMMISSIONER OF CUSTOMS (IMPORT)
AIR CARGO COMPLEX, SAHAR, MUMBAI

F.No. S/3-Misc-PRO-596/2013-14 ACC

Date: 17.01.2014

Public Notice No. 01/2014

Sub: Import of Gold and Gold Dore Bars- Procedure and Guidelines - reg.

Reference is invited to CBEC Circular No. 34/2013 dated 04.09.2013, RBI Circular RBI/2013-14/187, AP (DIR Series) Circular No. 25 dated 14.8.2013 and clarifications issued by Directorate General of Export Promotion (DGEP) vide F. No. DGEP/G & J/16/2009 dated 27.09.2013, 04.11.2013 and 21.11.2013 regarding procedure to be followed by the Nominated Agencies for supplying duty free gold to exporters. The following procedure will be followed for import of gold at Air Cargo Complex, Mumbai. The import of silver and platinum shall continue to be governed by the customs circular dated 14.10.2009.

2. Gold shall be permitted to be imported only by the agencies notified by DGFT, which as of now are as follows:

- i. Metals and Minerals Trading Corporation limited (MMTC);
- ii. Handicraft and Handloom Export Corporation (HHEC);
- iii. State Trading Corporation (STC)
- iv. Project and Equipment Corporation of India Ltd. (PEC);
- v. STCL Ltd;
- vi. MSTC Ltd;
- vii. Diamond India Limited (DIL);
- viii. Gems & Jewellery Export Promotion Council (G&J EPC)
- ix. A Star Trading House (only for Gems & Jewellery sector) or a Premier Trading House under paragraph 3.10.2 of Foreign Trade Policy; and
- x. Any other agency authorized by Reserve Bank of India (RBI).

3. Import of gold by the banks/agencies/entities specified in para 2 above, (i.e., Nominated Agencies), shall be subject to the following:

- a. Import of gold in the form of coins and medallions is prohibited.
- b. It shall be incumbent on the nominated banks/agencies/entities to ensure that at least one fifth, i.e., 20%, of every lot of import of gold imported to the country is exclusively made available for the purpose of exports and the balance for domestic use. A working

example of the operations of the 20/80 scheme is given in the Annexure to the RBI Circular dated 14.8.2013, as revised.

- c. Entities/units in the SEZ and EOUs, Premier and Star Trading Houses shall be permitted to import gold exclusively for the purpose of exports only and these entities shall not be permitted to clear imported gold for any purpose other than for exports (irrespective of whether they are nominated agencies or not).
 - d. Gold made available by a nominated agency to units in the SEZ and EOUs, Premier and Star Trading Houses shall not qualify as supply of gold to the exporters, for the purpose of the 20/80 Scheme;
 - e. Gold imported against any authorization such as Advance Authorization/Duty Free Import Authorization (DFIA) shall be utilized for export purposes only and no diversion for domestic use shall be permitted.
4. For import of gold, following procedure is prescribed:
- i. All imports shall be routed through customs bonded warehouses only;
 - ii. The proper officer may permit the vaults of the nominated agencies as customs bonded warehouse subject to the procedure prescribed under Section 58 of the Custom Act;
 - iii. For every consignment of gold imported, at least 20% quantity shall be for supply to the exporters only and remaining can be cleared on payment of duty in accordance with RBI circular dated 14.8.2013, as revised;
 - iv. The Nominated Agencies shall furnish a bond to the satisfaction of the said officer undertaking to properly account for the warehoused gold and also to discharge the duty liability at the prescribed effective rate of duty;
 - v. The Nominated Agencies may be permitted by the jurisdictional Commissioner of Customs to give a general bond for an estimated amount of duty worked out at the effective rate involved in their monthly import or a revolving bond starting with a bond equal to the duty estimated at the effective rate on quantity of gold likely to be imported in a month;
 - vi. The Nominated Agencies (other than designated banks nominated by RBI and public sector undertakings) shall also furnish a bank guarantee equal to 25% of the estimated amount of duty involved on import of gold in a month or the bonds executed by them. The exemption from bank guarantee to the designated banks nominated by RBI and public sector undertakings shall be permissible subject to the following conditions:

- a. The said entity has not defaulted in following the procedure and condition specified by Customs and/or DGFT;
 - b. In case of default in export of jewellery manufactured out of precious metal supplied by nominated agency within the prescribed period, the said entity has not defaulted in payment of duty within the specified period;
 - c. The said entity has not been served with a show cause notice or no demand confirmed against it, during the preceding 3 years, for violations involving fraud or collusion or any willful misstatement or suppression of facts under relevant provisions of the Customs Act 1962, the Central Excise Act 1944, the Finance Act 1994 covering Service Tax, the Prevention of Money Laundering Act 2002, the Foreign Trade (Development & Regulation) Act 1992, the Foreign Exchange Management Act 1999 and the Rules made thereunder;
- vii. The Commissioner of Customs may allow more than one Nominated Agencies to keep their imported goods in the same bonded warehouse provided the quantities are kept segregated and separate accounts are maintained;
 - viii. The Nominated Agencies shall be exempt from following the double lock system. Physical presence of the Bond Officer will not be required for bonding or ex-bonding the goods. No cost recovery charges would be payable by the Nominated Agencies;
 - ix. The Nominated Agencies can be visited by Custom officers for surprise audit or checks. The jurisdictional Commissioner should devise a system of random audit at least once in 3 months during the first year and twice in a year subsequently;
 - x. Vide CBEC Circular No. 34/2013 dated 04.09.2013 it had been stipulated that the Nominated Agencies, intending to clear gold to an exporter, shall file an ex-bond Bill of entry, clearly stating the name, address and details of owners/promoters/Managing Director/Partners etc of the exporter to whom the gold is being sold, with the jurisdictional customs officer where the gold has been bonded. The Nominated Agencies shall clear gold for domestic use on payment of duty by filing appropriate ex-bond Bill of Entry. However, it has been clarified by DGEP vide F.No. DGEP/G & J/16/2009/3160 dated 27.09.2013 that the Nominated Agencies have been allowed for clearance of the goods for export production under the relevant exemption notification under their own internal documents. The nominated agencies should submit a consolidated monthly account of the goods released exporter-wise and the duty involved which will be worked on the basis of effective rate of duty. The consolidated monthly account should be

submitted in the format as per Annexure A of this public notice, latest by the 5th of the month following the month to which such account pertains.

- xi. The exporters intending to receive precious metal from the Nominated Agencies will register themselves with their jurisdictional Deputy/ Assistant Commissioners who will issue them a one-time Certificate specifying therein the details of their units such as name and address of the unit and the owners/promoters/Managing Director/Partners etc. of the organization. Exporters already registered with the customs authorities under the provisions of circular 28/2009-Cus dated 14.10.2009 need not take a fresh registration under this circular. This certificate has to be produced to the Nominated Agencies while taking gold. The units shall submit an undertaking to the Deputy/ Assistant Commissioner without bank guarantee to follow the conditions of notification under which they are receiving duty free gold and export the jewellery made therefrom within the period stipulated in the Foreign Trade Policy. The same procedure will be followed by the EOU/SEZ units intending to receive gold from nominated agencies;
- xii. The customs officer shall permit clearance of the gold for export production under the relevant exemption notification after submission of the documents stated above and shall make necessary entries in the Register in the form prescribed in Annexure-I of the CBEC Circular No. 34/2013 dated 04.09.2013. This register shall be maintained by the customs officer separately for each of the nominated agency importing gold under his/her jurisdiction. Entries in this register will be completed by customs within three days after submission of the consolidated monthly account complete in all respect, by the Nominated agencies as per Annexure A of this Public Notice.
- xiii. The Nominated Agencies shall also maintain an account of the goods released to the exporters (exporter-wise) on day-to-day basis. This account shall be liable for inspection by any Customs authority as the account of a bonded warehouse;
- xiv. Proof of export by the exporter shall be furnished in accordance with para 4A.8(a) of HBP V.1, to the nominated agencies as a proof of having exported the jewellery made from the duty free gold released to them within the period prescribed in the Foreign Trade Policy. Following documents are required to be submitted:
 - a. Export Promotion Copy of Shipping Bill in original which will be endorsed by Customs in terms of DGEP clarification vide letter F. No. DGEP/G & J/16/2009 Pt. II dated 04.11.2013 (para 2).
 - b. Customs attested invoice.

- xv. Wherever such proof of export is not produced within the period prescribed in the Foreign Trade Policy, the Nominated Agency shall (without waiting for its recovery from the exporter) deposit the amount of duty calculated at the effective rate leviable on the quantity of precious metal not exported, within 7 days of expiry of the period within which the jewellery manufactured out of the said quantity of gold was supposed to be exported. The Nominated Agencies will settle their claim with the exporter at their own level. The Nominated Agencies shall also report the cases of failure to export the jewellery made out of gold released to the exporter, to the Commissioner of Customs in whose jurisdiction the gold was originally warehoused;
- xvi. The customs officer shall ensure that all clearances of gold from the customs bonded warehouse are in accordance with the RBI circular, especially that the quantity of gold imported by the Nominated Agency, in the third consignment onwards from the date of notification of the RBI Circular dated 14.08.2013, as revised, does not exceed five times the quantity of gold contained in the exported products for which proof of export and realization of payments related thereto, has been submitted to the customs officer;
- xvii. The reconciliation of exports and calculation of quantities for subsequent imports shall be done nominated agency-wise and port-wise by the jurisdictional customs officer. This reconciliation will be completed within ten working days after documents mentioned in para (xiv) above are submitted by the nominated agency.
- xviii. Further, in view of clarification issued by DGEP vide letter F. No. DGEP/G & J/16/2009 Pt. II dated 21.11.2013 any authorization such as Advance Authorisation (AA) / Duty Free Import Authorisation (DFIA) is to be utilized for import of gold meant for export purposes only and no diversion for domestic use shall be permitted. For any AA / DFIA issued prior to 14th August 2013 the condition of sequencing the imports prior to exports shall not be insisted upon. Further, notwithstanding any of the foregoing directions, entities/units in the SEZ and EOUs, Premier and Star Trading Houses (Irrespective of whether they are nominated agencies or not) are permitted to import gold exclusively for the purpose of exports only. Similarly, exports towards fulfillment of obligation under AA/DFIA scheme shall not qualify as export for the purpose of the scheme of 20:80.

5. For the import of gold dore bars, the following procedure is prescribed:
 - i. Import of gold dore bars shall be permitted only against a license issued by the DGFT;
 - ii. The entity to whom the license has been issued by DGFT, hereinafter referred to as the license-holder, shall be permitted to import gold dore bars subject to the conditions laid down in notification 12/2012-Cus dated 17.3.2012 as amended;
 - iii. The customs officer at the port from where gold dore bars are imported shall ensure that the quantity of gold imported by the license-holder, in the third consignment onwards from the date of notification of the RBI Circular dated 14.08.2013 as revised, does not exceed five times the quantity of gold contained in the exported products for which proof of export in accordance with Para 4A.8 (a) of HBP Volume 1 has been submitted to the customs officer;
 - iv. The customs officer at the port from where gold dore bars are imported shall maintain a license-holder wise record of the gold imported as per Register prescribed in Annexure-II of the CBEC Circular No. 34/2013 dated 04.09.2013. He/she shall also maintain a record of proof of export of the goods manufactured out of gold supplied by the license-holder to exporters from the refined gold. The proof of export, duly certified by the central excise officer in whose jurisdiction the refinery is registered, shall be submitted to the customs officer by the license holder.
 - v. The license holder shall ensure that at least 20% of the gold manufactured out of each consignment of gold dore bars is supplied to the exporters and the remaining is supplied for domestic use in accordance with the RBI circular dated 14.8.2013, as revised;
 - vi. Entities/ units in the SEZ and EOUs, Premier and Star Trading Houses shall be permitted to procure gold from the refinery of the license holder exclusively for the purpose of exports only and these entities shall not be permitted to clear such gold for any purpose other than for exports (irrespective of whether they are nominated agencies or not). Further, gold made available by such refineries to units in the SEZ and EOUs, Premier and Star trading houses shall not qualify as supply of gold to the exporters, for the purpose of the 20/80 Scheme;
 - vii. The central excise officer, in whose jurisdiction the refinery is registered, shall monitor that at least 20% quantity of refined gold shall be for the supply to the exporters only and remaining can be cleared in accordance with the RBI circular dated 14.8.2013, as revised;
 - viii. For each consignment of gold dore bars imported, the license holder shall submit a report on utilization of gold dore bars, gold produced after refining, gold issued to

exporters and the proof of export for the goods manufactured and exported by these exporters to the central excise officer under whose jurisdiction the refinery of the license holder is registered. A copy of the same, duly authenticated by the central excise officer, shall be submitted to the customs officer under whose jurisdiction the consignment was initially imported.

6. This Public Notice shall be deemed to be modified as and when, and in the manner CBEC and RBI issue any circular to amend the policy related to import of gold as contained in their circular dated 04.09.2013 and 14.08.2013 respectively.

Sd/17.01.2014

(RAVINDER SAROOP)
Commissioner of Customs (Import)
Air Cargo Complex, Mumbai

ANNEXURE A

RECEIPTS OF GOLD:

Date	Date of Import	B/E No. & Date	Date of warehousing	Quantity of Gold warehoused	Value of, and duty involved in the gold warehouse d	Signature of the authorized representative of the Nominated Agency
1	2	3	4	5	6	7

UTILIZATION OF GOLD:

B/E No. and Date	Quantity imported	Quantity warehoused	Quantity cleared on payment of duty	Quantity supplied to EOUs/SEZ units, Premier and Star trading houses	Quantity supplied to exporters (other than those in column 5)	Duty Involved (To be worked out on the basis of effective rate of duty)	Signature of the authorized representative of the Nominated Agency
1	2	3	4	5	6	7	8

Copy to

- (1) Chief Commissioner of Customs, Zone – III, Mumbai.
- (2) All Addl. Commissioners of Customs (Import), ACC, Mumbai.
- (3) All DCs/ACs, ACC, Import, Mumbai.
- (4) DC, EDI, ACC Mumbai for uploading on website.
- (5) Chairman, Gems & Jewellery Export Promotion Council (G & J EPC).
- (6) BCHAA, Mumbai.
- (7) MIAL, Air Cargo Complex, Mumbai.
- (8) Office copy.