

Circular No. 27/2016-Customs

F. No 484/31/2016 – LC
Govt. of India
Ministry of Finance
Dept. of Revenue
Central Board of Excise & Customs

New Delhi, dated 10th June 2016

To,
All Principal Chief Commissioners Customs,
All Principal Chief Commissioners of Customs & Central Excise,
All Chief Commissioners of Customs,
All Chief Commissioners of Customs & Central Excise,
All Directors General, Chief Departmental Representative,
All Principal Commissioners of Customs,
All Principal Commissioners of Customs & Central Excise,
All Commissioners of Customs,
All Commissioners of Customs & Central Excise.

Sub: Procedure to be followed by nominated agencies importing gold/silver/platinum under the scheme for 'Export Against Supply by Nominated Agencies' - reg.

Sir / Madam,

In connection with the changes made to Chapter IX of the Customs Act and Regulations issued thereunder, requests for clarification have been received from field formations and trade regarding the circulars 28/2009-Cus dated 14.10.2009 / Circular No. 34/2013- Cus. dated 04.09.2013 and warehousing of Gold/Silver/Platinum imported by nominated agencies under notification 57/2000-Customs dated 8th May 2000.

2. Circular 28/2009-Cus. lays down the procedure to be followed by the Nominated Agencies for supplying duty free gold imported under notification 57/2000-Customs, to exporters. Consequent to the guidelines issued by RBI for import of gold and gold dore bars vide AP (DIR Series) Circular No. 25 dated 14.8.2013 (80:20 scheme), Circular 34/2013-Customs was issued to operationalize the same, prescribing the procedure to be followed for import of gold and thereby amending circular 28/2009-Cus. dated 14.10.2009.

3. Pursuant to the withdrawal of the 80:20 scheme by RBI vide Circular no. 42 dated 28.11.2014, Circular 34/2013-Customs was rescinded vide DGEP letter No. DGEP/G&J/16/2009 (Pt.II). dated 03.12.2014. Further, DGFT had rescinded policy circular No. 77 (RE-2008)/2004-09 dated 31.03.2009 and withdrew all circulars on the import of precious metal by nominated agencies by circular no. 14 dated 01.02.2011. Later by issue of Policy Circular no. 39 (RE-2010)/ 2009-14 dated 19.08.2011, a fresh monitoring mechanism was laid out. Upon the issue of FTP 2015-20, circular no. 39 dated 19.08.2011 was also rescinded and para 4.41 of the Foreign Trade Policy and 4.94 of the Hand Book of Procedures now lay down the procedure with regard to import of gold/silver/platinum, duty free, by nominated agencies for supply to exporters for manufacture of jewellery and export thereof. Accordingly, notification 57/2000-Cus. was amended by notification 33/2015-Cus to incorporate the relevant paras of the FTP.

4. Circular 28/2009-Cus. deals with two issues, namely, warehousing of gold/silver/platinum imported by nominated agencies for supply to exporters and the procedure for accounting of the same.

5. It is clarified that warehousing is a facility for duty deferment. As per section 2 (14) of the Customs Act, Dutiable goods are defined as “any goods which are chargeable to duty and on which duty has not been paid”. Chapter IX provides that only dutiable goods may be deposited in a warehouse. Therefore, any exempted goods are not to be warehoused within the meaning of chapter IX of the Customs Act. Accordingly, any gold/silver/platinum imported under the notification 57/2000-Cus dated 8th May 2000 must be cleared on a bill of entry for home consumption and not a bill of entry for warehousing.

5.1 Consignments of Gold / Silver / Platinum imported under notification no. 57/2000-Cus. do not require to be warehoused. In order to facilitate a smooth transition to the new procedure, it is being provided that nominated agencies shall file ex-bond bills of entry under section 68 availing the benefit of notification no.57/2000-Cus. any time on or before 13th August 2016 (in terms of the transitional provisions in the licencing regulations). In the meanwhile, the goods can continue to be stored in the existing vaults.

5.2 The procedure regarding warehousing of dutiable precious metals under Section 58A is under consideration of the Board. In the meantime, any dutiable precious metals already imported or to be imported (i.e. without availing notification no. 57/2000-Cus. or any other exemption notification by virtue of which no duty is chargeable) can continue to be stored in the existing vaults licensed under erstwhile Section 58. Since the licencing regulations provide for a transitional period upto 13th August, 2016, importers may be advised to plan for complying with the new regulations for

storage of gold which is imported without availing any duty free exemption in warehouses licensed under section 58A.

6. By circular 28/2009 – Cus dated 14.10.2009 the Board had in order to avoid divergent practices and to streamline supply of precious metal for exports, laid down a procedure for duty free import of gold/silver/platinum by nominated agencies for supply to exporters. The same has now been reviewed by the Board and the following simplified procedure shall henceforth be followed:

(i) the Nominated Agencies shall execute a bond to the Deputy/Assistant Commissioner of Customs binding themselves to, -

(a) maintain accounts for the gold/silver/platinum imported; and

(b) to discharge the duty in the event of the exporter not fulfilling his export obligation within the period prescribed under the foreign trade policy;

(ii) For the purpose of para (i) above, the Nominated Agencies may execute a bond for an amount equivalent to the duty involved on the import of a particular consignment, or, a general bond for an amount equivalent to the duty involved on quantity of precious metal likely to be imported over a specified period as declared by the importer;

(iii) The Nominated Agency shall, along with the bond, furnish a bank guarantee equal to 25% of the estimated amount of duty involved.

(iv) However, the designated banks nominated by RBI as well as public sector undertakings shall be exempt from the condition of furnishing bank guarantee, provided they fulfill the following conditions:

(a) they have not defaulted in following the procedure and conditions specified by DGFT;

(b) they have not defaulted in payment of duty within the specified period in cases where there was a default in export of jewellery by an exporter to whom the gold/silver/platinum had been supplied;

(c) they have not been involved in any violations involving fraud or collusion or willful mis-statement or suppression of facts under relevant provisions of the Customs Act, 1962, the

Central Excise Act, 1944, the Finance Act, 1994, the Foreign Trade (Development & Regulation) Act, 1992, the Foreign Exchange Management Act, 1999 and the rules made thereunder during the last three years;

(v) the exporters intending to receive precious metal from the Nominated Agencies will register themselves with their jurisdictional Asst. Commissioners who will issue them a one-time certificate specifying therein the details of their units. This certificate has to be produced to the Nominated Agencies while taking gold. The exporter shall submit to the Asst. Commissioner an undertaking to the effect that he shall export the jewellery made from the gold/silver/platinum received from the nominated agency within the period stipulated in the Foreign Trade Policy.

(vi) EOUs may submit a self-declaration to the Nominated Agencies stating therein the details of their unit; As per para 6.01 (h) of FTP 2015-20, EOUs shall have to provide proof of export within a period of 90 days from the date on which they are issued the gold imported by nominated agencies.

(vii) As far as exporters operating under replenishment scheme are concerned, they may be permitted to receive precious metal from the Nominated Agencies on submission of EP copy of the shipping bill. Nominated agencies shall also monitor the export proceeds realization of such shipments against which they have replenished precious metal, on the basis of Bank certificate of realization to be submitted by exporters to the nominated agencies, as a proof of having exported the jewellery.

(viii) the Nominated Agencies would supply the gold / silver / platinum for export production and would submit an exporter-wise consolidated monthly account in format enclosed by the 10th of the succeeding month to the Customs station of import;

(ix) the exporter shall furnish the EP copy of the shipping bill and Bank Realization Certificate to the nominated agencies as a proof of having exported the jewellery made from the duty free goods released to them within the period prescribed in the Foreign Trade Policy;

(x) wherever such proof of export is not produced within the period prescribed in the Foreign Trade Policy, the Nominated Agencies shall 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 precious metal was supposed to be exported.

7. Circular 28/2009 – Customs dated 14th October 2009 stands rescinded.

8. Difficulties, if any, may be brought to the notice of the Board.
9. Hindi version follows

Yours faithfully,

(Temsunaro Jamir)
Under Secretary to the Govt. of India

Format
(as per Circular No. 27/2016-Customs)

RECEIPTS

Bill of Entry No. and date	Customs station of import	Description of Goods (Gold/ Silver/ Platinum)	Quantity (in kgs)	Tariff Value	Exemption notification availed	Duty assessed on the goods (but for exemption)
1	2	3	4	5	6	7

ISSUE

Date of Issue to exporter	Bill of Entry No. and date under which the goods were imported	Name & Address of the Exporter	Description of goods (Gold/ Silver/ Platinum)	Qty. issued (in kgs)	Tariff Value	Duty involved on the goods issued (but for exemption)	Shipping Bill No. & Date	Qty. exported within period prescribed in FTP	Details of BRC	Balance quantity	Duty credited to customs (TR-6 Challan No. & Date)
1	2	3	4	5	6	7	8	9	10	11	12

Signature of Authorized Signatory

Date:

