Circular No. 01/2019-Customs

F. No: 450/119/2017-Cus-IV
Government of India
Ministry of Finance
Dept. of Revenue
(Central Board of Indirect Taxes and Customs)
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Room No. 227B, North Block, New Delhi
Dated, 2nd January, 2019

To,

All Principal Chief Commissioners/Chief Commissioners of Customs/Customs (Preventive)
All Principal Chief Commissioners/Chief Commissioners of Customs & Central Excise
All Principal Commissioners/Commissioners of Customs/Customs (Preventive)
All Principal Commissioners/Commissioners of Customs & Central Excise

Subject: IGST Export Refunds–resolution of errors– reg.

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Madam/Sir,

The processing of IGST refund claims on exports is fully automated. Majority of refunds claims are getting processed and sanctioned within five days of filing of GSTR-1 and GSTR-3B returns. However, in a few cases, particularly for the LCL cargo consignments originating from ICDs, Export General Manifest (EGM) related errors continue to hinder smooth and automatic sanction of IGST refund claims. The nature of these errors has been examined in detail. It has been observed that the main reasons for such EGM errors still hampering the IGST refund processing are as under:

(i) Online filing of both local and Gateway EGM not being done on time by the concerned stakeholders.
(ii) Mismatch in local and gateway EGM details wherever both are filed online.
(iii) Non-filing of stuffing report by the Preventive officers at Gateway Ports for the LCL cargo being consolidated at the Gateway Ports/CFSs in the system.

2. **Non-filing/Late filing of Online Local and Gateway EGM**: -

(i) The processing of IGST refund gets hampered either because the local EGM has not been filed online or has been filed late. There are instances where the cargo originating from the hinterland ICDs reached the gateway port without the local EGM having been filed online. Earlier vide Circular No. 42/2017-Cus., dated 7.11.2017 it was explained that due to manual filing of EGM in respect of Shipping bills originating from ICDs, system is unable to match the gateway EGM and the local EGM. Therefore, it was instructed that all the custodians / carriers / shipping lines operating at ICDs/ Gateway

ports should file EGM online. It is re-iterated that the first step would be that the concerned stakeholders at the originating ICDs file the local EGMs online.

(ii) Where the export goods are directly moved by truck to the gateway port, in such cases, filing the local EGM timely should not pose any problem. At inland ICDs/CFSs connected by train, the local EGM shall be filed before the goods actually move out of ICD/CFS. In ICDs/CFSs not connected by train but where the movement of export goods begins from the nearest train-based ICD/CFS, it has been observed that local EGM is not being filed as the Train Number is not known to the custodian for the want of Rail receipt. In such cases, it must be ensured that local EGM is filed by the custodian immediately after getting Train details in which containers are moving to Gateway port but in any case, before the train leaves for the Gateway port. Officers at these stations shall constantly monitor to check the pendency and take necessary action.

(iii) Non-filing of EGM clearly hints at non-compliance by the custodian / person in charge of the conveyance carrying export goods. Section 41 of the Customs Act authorizes the customs officer to take action against such non-filers. However, more than invoking the penal sections, jurisdictional Commissioners need to constantly monitor the activity of timely filing of the EGM and take necessary steps to ensure the same.

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(iv) Board expects its jurisdictional officers to take all necessary steps to ensure that all EGMs of cargo related to past cases are filed before 31st January 2019. As a measure of facilitation, penal provisions may not be invoked for EGMs filed till 31st January, 2019. However, continued non-compliance beyond 1st February, 2019 may be dealt strictly by taking recourse to penal provisions in accordance with the law.

3. **Mismatch in Local EGM and Gateway EGM**:

(i) The errors arising out of mismatch of information provided in local and Gateway EGM has been discussed in para 6 of Circular No. 06/2018-Customs where in Board had clearly delineated the roles and responsibilities of the Customs officers at the inland ICDs/ CFSs and at the Gateway port or CFSs attached with the gateway ports respectively in so far as the task of integrating the local EGM and the gateway EGM was concerned.

(ii) One of the major hindrances in smooth processing of IGST refunds for the past period is the problem faced by field formations in gathering information with regard to LCL cargo from Shipping lines and Custodians. The matter has been examined. The procedure related to consolidation of cargo at Gateway ports has already been prescribed vide Circular No. 55/2000-Cus dated 30.06.2000 wherein it is provided inter-alia that the custodian of the gateway port or CFS near gateway port is required

to maintain a tally sheet container-wise, giving details of the export consignments, the previous Container No., Shipping Bill No., AR-4 No. and the details of new container in which goods have been re-stuffed. It was also mandated that the concerned shipping line would issue the Bill of Lading, a copy of which would be handed over to the custodian. After necessary endorsements regarding inspection, the other transference copy would be returned to the originating ICD/CFS. Thus, the custodian of the CFSs or Gateway port bears the responsibility to maintain all records with regard to LCL cargo consolidated at their premises. Subsequently, vide circular No. 08/2018-Customs, instead of the said transference copy, correlation with final bill of lading or written confirmation from the custodian of the gateway CFS was permitted for purposes of integration of the local and gateway EGM.

(iii) It has also been learnt that in some field formations tally sheet is being maintained in the form of Container Load Plan (CLP) which is prepared by Shipping lines and gives details of packages stuffed in the container. It has been reported that cargo is de-stuffed under customs supervision based on Container De-stuffing Plan (CDP). Preparing CLP/CDP does not absolve the custodian of the responsibility of keeping account of the cargo being handled in the form of a tally sheet. Such local practice of CLP/CDP appears to have been started only for the convenience of shipping lines/custodian. The accounting of previous containers vis-a-vis new container in case of LCL cargo being re-stuffed at CFS or Gateway port is an important event in establishing the linkage between the local EGM and Gateway EGM. Circular 55/2000-Cus dated 30.06.2000 mandating the procedure to be followed at Gateway Ports or CFS attached to Gateway ports and the originating inland ICDs/CFSs for consolidation of LCL cargo on Gateway ports or CFS attached to such gateway ports is still in vogue and the same has not been dispensed with.

(iv) Agents of Shipping lines / freight forwarders/ consolidators operating at the inland ICDs/CFSs play a very critical role in booking of the export cargo for the overseas destination. CBIC has deputed its officers to some of the inland ICDs/ CFSs. The feedback obtained has revealed that these entities have all the necessary information regarding the movement of goods from ICDs/ CFSs to Gateway port, consolidation at the gateway port and journey beyond. These entities can be easily approached to provide the requisite information/ documents for rectification of EGM related errors in case exporters for some reason do not have the requisite information. Jurisdictional Customs officers at inland ICDs/ CFSs are therefore, required to approach these agents to obtain the details of re-worked containers (C or N related EGM errors). The information gathered from the agents shall be collated and immediately communicated to Gateway port officers so that rectification of errors (C or N) could be done.

(v) Customs officers in charge of CFSs shall provide list of Shipping Bills having SB006 error i.e EGM errors to the concerned CFSs at gateway ports. The custodians

shall in turn provide details as mentioned in Tally Sheets or CDP/CLP (containing container details) relating to the said SBs to the Customs officers. Simultaneously, Gateway port officers shall coordinate with the officers of the originating ICDs/ CFSs to obtain relevant particulars in accordance with the procedure in para (iv) above. It shall be the responsibility of the officers in charge of CFSs at Gateway ports to obtain necessary details from the stakeholders which establish the linkages between the goods received from inland ICDs/ CFSs and those exported out of India except in cases where the local EGM has not been filed in which case the responsibility would be of the officers manning the inland ICD/CFS.

(vi) Once the details are received, the Preventive officer/ P.O. at the gateway port CFSs shall use the option in the Preventive Officer role (PREV_OFF) to rectify container details. (Refer ICES Advisory 08/18 dt. 09.03.2018). The preventive officer can amend the container details in the Gateway EGM CTR Amendment Option to correct the N and C errors after verifying the relevant details from shipping bill, master BL and House(local) BL. Once the corrections are made, EGM officer at Gateway port can revalidate EGMs for successful integration of the updated details. For those shipping bills in respect of which no gateway EGM was filed in the first place, the shipping line can file supplementary EGM for successful integration.

(vii) Responsibilities and liabilities of custodians have been provided in detail in the Handling of Cargo in Customs Areas Regulations, 2009. Regulation 6 clearly casts the responsibility of keeping account of export goods on the Customs Cargo Service Provider (CCSP). Further, the procedure for suspension or revocation and imposition of penalty is provided in Regulation 12 which can be resorted to in cases where CCSP fails to comply with the regulations. This must be strictly enforced after following due process in instances of persistent non-compliance.

(viii) Export of goods out of India is an essential condition for grant of IGST refund as provided in Rule 96 of CGST Rules, 2017. It therefore warrants verification whether the goods were indeed exported out of India where the IGST refund claims have been long pending with EGM error (SB006).

4. <u>Stuffing Report by Preventive Officers at Gateway Ports</u>

(i) It appears that in some gateway ports, the Preventive officers are entering stuffing report in ICES application of Customs EDI System pertaining to the shipping bills filed only in gateway port, but not for the shipping bills which have been filed in ICDs. It is important that Preventive officers posted in gateway ports should enter stuffing reports for <u>all</u> shipping bills irrespective of the fact from where they have been filed i.e in gateway port or ICDs.

(ii) Further, in order to avoid the problem of mismatch in information in local and gateway EGMs, the preventive officers must play a proactive role. Custodian at CFSs/Gateway Ports shall prepare Tally Sheet as mandated in Circular No. 55/2000-Cus. The preventive officer shall supervise de-stuffing and re-stuffing, so as to verify the details like number of package (s), quantity etc. and satisfy himself that there is no short shipment, replacement or diversion of cargo etc. In addition to providing the stuffing report for the local cargo, the gateway port officer should also verify the correctness of package (s) and container details for cargo coming from inland ICDs cargo immediately in ICES, using the Gateway EGM CTR Amendment option. Tally sheet shall be prepared containing all the necessary details simultaneously. Corrections, if required, in the container/package details shall be rectified at this stage itself to avoid the occurrence of N and C errors, when the gateway EGM is eventually filed. Once the corrections are made, the EGM officer at the Gateway port can revalidate EGMs for successful integration of the updated details.

5. Board had vide Circular No. 67/2000-Customs extended the procedure prescribed in 55/2000-Customs to agents of shipping lines / MTOs / NVOCCS / freight forwarders/consolidators. This was purely a facilitation measure taking into account the business practice of the shipping lines. Board has allowed these entities a role in the logistics chain only to facilitate the trade. Since these entities have the necessary information, it should not be difficult for them to provide the particulars required to resolve the pending SB006 cases. Therefore, there is a responsibility on these entities to coordinate with the field formations in return. Board would be constrained to review the facility given vide 67/2000-Customs to agents of shipping lines / MTOs / NVOCCS / freight forwarders/ consolidators should there be any report of non-cooperation and non-compliance from their side.

6. Chief Commissioners are requested to strictly implement the guidelines given above. Difficulties, if any, should be brought to the notice of the Board. Hindi version follows.

Yours faithfully,

Zubair Riaz

(Zubair Riaz)
Director (Customs)