**RBI AND FEMA GUIDELINES ON WRITE-OFF UNREALIZED EXPORT BILLS**

***RBI/2012-13/435***

***A.P. (DIR Series) Circular No. 88***

***March 12, 2013***

**“WRITE-OFF” OF UNREALIZED EXPORT BILLS –**

**EXPORT OF GOODS AND SERVICES – SIMPLIFICATION OF PROCEDURE**

1. Attention of Authorized Dealer Category – I (AD Category –I) banks is invited to A.P. (DIR. Series) Circular No. 12, 30, 61, 40, 33 and 03 dated September 09, 2000, April 04, 2001, December 14, 2002, December 05, 2003, February 28, 2007 and July 22, 2010 respectively in terms of which the exporters were given limited powers of write-off and also AD Category – I banks have been permitted to accede to the requests for "write-off" made by the exporters, subject to the conditions, inter alia, that the exporter had to surrender proportionate export incentives, if availed of, in respect of the relative shipments.

2. An exporter who has not been able to realize the outstanding export dues despite best efforts, may either self-write off or approach the AD Category – I banks, who had handled the relevant shipping documents, with appropriate supporting documentary evidence with a request for write-off of the unrealized portion subject to the fulfilment of stipulations regarding surrender of incentives prior to “write-off” adduced in the A.P. (DIR Series) Circular No. 03 dated 22 July 2010.

The following liberalization in the limits of “write-offs” of unrealized export bills:

**Self “write-off” by an exporter (Other than Status Holder Exporter) ----------- 5%\***

**Self “write-off” by Status Holder Exporters ------------------------------------------ 10%\***

**‘Write-off” by Authorized Dealer bank ------------------------------------------------ 10%\***

**\*OF THE TOTAL EXPORT PROCEEDS REALIZED DURING THE PREVIOUS CALENDAR YEAR.**

3. The above limits will be related to total export proceeds realized during the previous calendar year and will be cumulatively available in a year.

4. The above “write-off” will be subject to the **following conditions**:

(a) The relevant amount has remained outstanding for more than (1) one year;

(b) Satisfactory documentary evidence is furnished in support of the exporter having made all efforts to realize the dues;

(c) The case falls under any of the undernoted categories:

(i) The overseas buyer has been declared insolvent and a certificate from the official liquidator indicating that there is no possibility of recovery of export proceeds has been produced.

(ii) The overseas buyer is not traceable over a reasonably long period of time.

(iii) The goods exported have been auctioned or destroyed by the Port / Customs / Health authorities in the importing country.

(iv) The unrealized amount represents the balance due in a case settled through the intervention of the Indian Embassy, Foreign Chamber of Commerce or similar Organization;

(v) The unrealized amount represents the undrawn balance of an export bill (not exceeding 10% of the invoice value) remaining outstanding and turned out to be unrealizable despite all efforts made by the exporter;

(vi) The cost of resorting to legal action would be disproportionate to the unrealized amount of the export bill or where the exporter even after winning the Court case against the overseas buyer could not execute the Court decree due to reasons beyond his control;

(vii) Bills were drawn for the difference between the letter of credit value and actual export value or between the provisional and the actual freight charges but the amount has remained unrealized consequent on dishonor of the bills by the overseas buyer and there are no prospects of realization.

(d) The exporter has surrendered proportionate export incentives (for the cases not covered under A. P. (DIR. Series) Circular No.03 dated July 22, 2010), if any, availed of in respect of the relative shipments. The AD Category – I banks should obtain documents evidencing surrender of export incentives availed of before permitting the relevant bills to be written off.

(e) In case of self-write-off, the exporter should submit to the concerned AD bank, a Chartered Accountant’s certificate, indicating the export realization in the preceding calendar year and also the amount of write-off already availed of during the year, if any, the relevant GR / SDF Nos. to be written off, Bill No., invoice value, commodity exported, country of export. The CA certificate may also indicate that the export benefits, if any, availed of by the exporter have been surrendered.

5. **However, the following would not qualify for the “write off” facility:**

Exports made to countries with externalization problem i.e. where the overseas buyer has deposited the value of export in local currency but the amount has not been allowed to be repatriated by the central banking authorities of the country.

GR / SDF forms which are under investigation by agencies like, Enforcement Directorate, Directorate of Revenue Intelligence, Central Bureau of Investigation, etc. as also the outstanding bills which are subject matter of civil / criminal suit.

6. The respective AD banks may forward a statement in form **EBW**, in the Sen closed format, to the Regional Office of Reserve Bank under whose jurisdiction they are functioning, indicating details of write-offs allowed under this circular.

7. AD banks are advised to put in place a system under which their internal inspectors or auditors (including external auditors appointed by authorized dealers) should carry out random sample check / percentage check of “write-off” outstanding export bills.

8. Cases not covered by the above instructions / beyond the above limits, may be referred to the concerned Regional Office of Reserve Bank of India.

9. Authorized Dealers may bring the contents of the Circular to the notice of their constituents concerned.

10. The directions contained in this Circular have been issued under sections 10(4) and 11(1) of the Foreign Exchange Management Act, 1999 (42 of 1999) and are without prejudice to permissions / approvals, if any, required under any other law.

**WRITE OFF IN CASES OF PAYMENT OF CLAIMS BY ECGC AND PRIVATE INSURANCE COMPANIES REGULATED BY INSURANCE REGULATORY AND DEVELOPMENT AUTHORITY (IRDA)**

(i) AD Category – I banks shall, on an application received from the exporter supported by documentary evidence from the ECGC and private insurance companies regulated by IRDA confirming that the claim in respect of the outstanding bills has been settled by them, write off the relative export bills and delete them from the XOS statement.

(ii) Such write-off will not be restricted to the limit of 10 per cent indicated above.

(iii) Surrender of incentives, if any, in such cases will be as provided in the Foreign Trade Policy.

(iv) The claims settled in rupees by ECGC and private insurance companies regulated by IRDA should not be construed as export realization in foreign exchange.

**WRITE-OFF – RELAXATION**

As announced in the Foreign Trade Policy (FTP), 2009-14, with effect from August 27, 2009, realization of export proceeds shall not be insisted upon under any of the Export Promotion Schemes under the said FTP, subject to the following conditions:

(a) The write-off on the basis of merits is allowed by the Reserve Bank or by AD Category – I bank on behalf of the Reserve Bank, as per extant guidelines;

(b) The exporter produces a certificate from the Foreign Mission of India concerned, about the fact of non-recovery of export proceeds from the buyer; and

(c) This would not be applicable in self write off cases.

(d) The AD Category – I banks are advised not to insist on the surrender of proportionate export incentives, other than under the Duty Drawback Scheme, if availed of, by the exporter under any of the Export Promotion Schemes under FTP 2009-14, subject to fulfilment of conditions as stated above. The drawback amount has to be recovered even if the claim is settled by the Export Credit Guarantee Corporation of India Limited (ECGC) or the write –off is allowed by the Reserve Bank.

***A.P. (DIR Series) Circular No.20***

***January 28, 2002***

**EXTENSION OF TIME**

(i) The Reserve Bank of India has permitted the AD Category – I banks to extend the period of realization of export proceeds beyond 12 months from the date of export, up to a period of six months, at a time, irrespective of the invoice value of the export subject to the **following conditions:**

(a) The export transactions covered by the invoices are not under investigation by Directorate of Enforcement / Central Bureau of Investigation or other investigating agencies,

(b) The AD Category – I bank is satisfied that the exporter has not been able to realize export proceeds for reasons beyond his control,

(c) The exporter submits a declaration that the export proceeds will be realized during the extended period,

(d) While considering extension beyond one year from the date of export, the total outstanding of the exporter does not exceed USD one million or 10 per cent of the average export realizations during the preceding three financial years, whichever is higher.

(e) All the export bills outstanding beyond six months from the date of export may be reported in **XOS** statement. However, where extension of time has been granted by the AD Category – I banks, the date up to which extension has been granted may be indicated in the ‘Remarks’ column.

(f) In cases where the exporter has filed suits abroad against the buyer, extension may be granted irrespective of the amount involved / outstanding.

(ii) In cases where an exporter has not been able to realize proceeds of a shipment made within the extended period for reasons beyond his control, but expects to be able to realize proceeds if further extension of the period is allowed to him, as well as in respect of cases not covered under Para (i) above necessary application (in duplicate) should be made to the Regional Office concerned of the Reserve Bank in form ETX through his AD Category – I bank with appropriate documentary evidence.

**STATUS HOLDER EXPORTER**

status-holders are business leaders who have excelled in international trade and have successfully contributed to the country’s foreign trade. They are expected to not only contribute towards India’s exports but also provide guidance and handholding to new entrepreneurs.

All exporters of goods and services having an importer-exporter-exporter code (IEC) number shall be eligible for recognition as a status-holder depending upon a certain level of export performance. An applicant for status-holder recognition should have exported goods/services at least for two years to claim Export House status. Their export performance will be calculated for the current year plus the previous two years. In the previous policy, it was current year plus previous 3 years. The export performance will be counted on the basis of FoB value of exports earnings in free foreign exchange. Deemed exports also counted for this purpose on the basis of FoR value. The rupee earnings shall be converted into US dollar at the exchange rate notified by Central Board of Excise & Customs (CBEC) as applicable on 1st April of each financial year.

**Some of the special privilege enjoyed by Status Holder are as follows:**

1. Status Holder are entitled for EDF waiver (waiver of GR forms) for export of goods free of cost up to the limit of Rs. 10 Lakhs or 2% of average annual export realization whichever is lower.
2. Licenses, certificates, permissions and custom clearance is allowed both for export and imports on self-declaration basis.
3. Status- holder re exempted from submitting bank guarantee for FTP schemes save specified otherwise anywhere in FTP or HBP.
4. Negotiating export bills through a bank is not compulsory; However, the export proceeds should be routed through banking channels.
5. Two star houses and above are permitted to establish ‘warehouse’ as per guidelines of Revenue department.
6. Three star export house and above entitled for the benefits of Accredited Clients Programme (ACP) under Central Board of Excise and Customs guidelines.
7. Three, four and five star status holder can self-certify their manufactured goods as originated from India (certificate of Origin) to qualify for preferential treatment under PTAs, FTAs, CECA and CEPA.
8. Eligible for fixation of Input-output norms on priority within 60 days.
9. Entire foreign exchange earnings (100%) can be retained in EEFC account.
10. Normal repatriation period for export proceeds is enhanced from 180 days to 360 days.

**ANNEXURE**

**Certificate in case provided by the Chartered Accountant \*\*.**

I/We have audited the accounts of M/s\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ and on that basis, certify that the export proceeds for export shipments made during the period \_\_\_\_\_\_\_\_\_\_ to \_\_\_\_\_\_\_\_\_ have been received except for the following consignments as per details given below:

**1**. **Name of the exporter:**

**2. IEC No.:**

**3. Port of export:**

**4. Details of exports pending realization:**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Sl. No. | Shipping bill number and date  | Due date for realization  | Amount pending realization | Remarks like whether exporter has been granted extension or applied for extension or waiver or any other reasons for non-recovery |
|  |  |  |  |  |

**Place:**

**Date:**

**Signature and details of chartered accountant**

**CA Registration No.**

 \*\* Certificates are to be furnished for each port separately for the periods January - June/ July- December every year