

COMPTROLLER AND AUDITOR GENERAL OF INDIA

New Delhi

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Report No. 10 of 2021 -Performance Audit on Advance Authorisation Scheme (AAS), Union Government (Customs) Presented in Parliament

The Performance Audit Report of the Comptroller and Auditor General of India on Advance Authorisation Scheme (AAS), Union Government (Customs) (Report No. 10 of 2021) for the year ended 31 March 2019 was presented to the Parliament on 21.12.2021

Performance Audit of this Scheme was conducted to ascertain whether the issue, utilization, redemption and implementation of Authorisations by the Directorate General of Foreign Trade (DGFT) and the Customs Department is being done in an efficient and effective manner. Audit also examined the effectiveness of inter-departmental coordination involved in the administration of the Scheme and whether the internal control measures are sufficient to minimize the risks of revenue loss, misuse, etc. Audit covered DGFT, its Regional Authorities (RAs) and related Customs field formations through the Customs Commissionerates concerned.

Significant findings included in this Report are mentioned in the following paragraphs:

- I. Audit examined the implementation of facilitation measures introduced for simplifying the process of issuance of AAs by analyzing the data for the period from 2015-16 to 2018-19 and the key features of the automated system. The analysis revealed that the AA Scheme was partially automated with the receipt of application being automated while the process of issue of AAs remained largely manual. There were acute staff shortages both at DGFT Headquarters and at RAs with substantial accumulated vacancies, which could be adversely impacting the ability of DGFT in ensuring effective implementation and monitoring of not only Advance Authorisation but also other schemes under Foreign Trade Policy (FTP).
(Para 2.1)
- II. The substantial delay in issue of AAs indicated failure of the automated system in achieving the objective of simplification of procedures and ease of doing business during the audit period of 2015-16 to 2018-19. The process of issuance of AAs though automated, required manual intervention as the mandatory online filing of prescribed documents along with the application could be implemented only in May 2019, whose implementation will be reviewed in future audits.
(Para 2.2)
- III. SION was last notified by DGFT in May 2009 vide Handbook of Procedures (HBP) 2009-14 (Volume-II). Thereafter, no comprehensive review of Standard Input

Output Norms (SION) was undertaken by DGFT, even though HBP for 2015-2020 was introduced with effect from 1 April 2015 and HBP for 2021-2026 is to be notified

(Para 2.3)

- IV. Audit reviewed the pendency position of Advance Authorisation applications with the Norms Committees. There were significant delays in fixation of norms beyond the prescribed period of four months, ranging from 4 months to 16 years, as against the time limits of 12 months and 18 months respectively for imports and fulfillment of export obligation. There is no maximum time limit in the FTP/HBP to represent against the decision of Norms committees (NCs)resulting in delay in the initiation of proceedings against Authorisation Holder (AH) by RAs and Customs Authorities for making recovery of Customs duty and interest thereon.

(Para 2.4.1 to 2.4.3)

- V. Audit found the implementation of the Denied Entity List (DEL) mechanism, perceived to make the exporters strictly comply with the conditions of licences, to be ineffective with inordinate delay in placing the entities under DEL which ranged upto 8 to 13 years and issuing of multiple abeyance orders. There is no limit fixed for number of abeyance orders that can be issued to an exporter under the extant rules/procedures. Besides, there is no mechanism for the RA to know if the applicant has been penalized under the Customs Act and rules thereunder, as there is no exchange of information about such penalized entities between Customs and DGFT offices. Issue of authorisation is purely on self-declarations of the applicant.

(Para 2.5)

- VI. Allowing duty free imports after the validity period of authorisations or excess imports against licences indicates weakness in the monitoring mechanism in the Customs Licence Utilisation module. Non-cancellation of the bonds in a timely manner, as prescribed in CBIC instructions, not only results in locking up of funds of the genuine AHs but also sends a wrong signal to the trade at large.

(Para 3.1.1 to 3.1.3)

- VII. RAs depend on AH to claim for redemption as no mechanism exists with the RAs in the extant system to ascertain the cases where the Export Obligation (EO) period has expired. Instances of non-monitoring of excess imports, non-compliance with the pre-import conditions and undue extension of EOP were observed.

(Para 3.2.1.1 to 3.2.1.4)

- VIII. Non-activation of the online facility for redemption/Export Obligation Discharge Certificate (EODC) application resulted in delay in issue of EODC and increase in transaction cost and time. Even though the redemption application were filed online, however, all documents like BEs, SBs, e-BRCs, input and export consumptions and certificates were required to be filed manually during the period of audit 2015-16 to 2018-19.

(Para 3.2.6)

- IX. In the absence of an effective online Message Exchange Module (MEM), CBIC often had to depend on the AH to ascertain EODC status granted by DGFT. Similarly, DGFT was not aware about the duty payment status for cases where EO period is over but documents have not been submitted. Non-communication of EODC data by DGFT/non-usage of EODC data by Customs authorities results in delay in closure of bonds and increase in pendency. Mis-match between DGFT and Customs in action taken against defaulters and Non-monitoring of export performance due to weak institutional mechanism was noticed.

(Para 3.3.1 to 3.3.3)

- X. Specific timelines should be prescribed in the Foreign Trade Development Regulation (FTDR) Act for issuing of SCNs and adjudication orders so that all cases liable for action should be dealt in the same manner without any prejudice. This would also help to minimize the blockage of government revenue.

(Para 4.2)

- XI. MIS reports submitted by RAs are not being adequately monitored/reconciled by the DGFT and non-reporting of vital information is not being pursued with RAs. The delay in initiation of action as well as delay in disposal of demand notices/SCNs resulted in huge accumulated pendency. No timelines were specified in the FTP and no administrative orders were issued containing instructions to initiate action and escalate legal proceedings against the defaulters.

(Para 4.3)

Recommendations:

CAG recommends that:

1. *DGFT/ Department of Commerce should put in place a time-bound plan for filling up of accumulated vacancies with qualified resources, so that it is well equipped to ensure implementation and monitoring of Advance Authorisation and other Schemes, in case DGFT intends to continue with the schemes.*

(Para 2.1)

2. *DGFT may review the manual and automated processes for timely issuance of AAs by ensuring that the online module is realigned to accept only full and completed applications along with all the required documents. The sufficiency of timelines (or otherwise) of such issuance may also be reviewed. Significant delays (ranging from three months to more than two years) in issuing AAs by DGFT vis-à-vis the prescribed timelines of three days defeats the very purpose of the scheme of getting imported items at prevalent international prices as the possibility of fluctuation of prices cannot be ruled out in such extended period.*

(Para 2.2)

3. *With advancement in manufacturing processes and facilities as well as technological upgradations across sectors over time, DGFT should conduct a comprehensive review of the SION notified through HBP Volume-II in 2009.*

(Para 2.3)

4. *With delays in fixation of norms ranging from four months to 16 years (when the time limit prescribed for duty free inputs and exports under the AA scheme is 12 months and 18 months respectively), the Norms Committee (NC) system for the no-norms category is not working effectively and DGFT needs to review the system comprehensively to assess its practicability and feasibility, while minimizing the scope for misuse.*

(Para 2.4.2)

5. *DGFT may ensure updating of DEL in a timely manner and may review the process of issuing abeyance orders. Further, the DEL should include details of penalties imposed for the prior period, and results of action taken, recoveries made, adjudications, etc. Interest of revenue may be protected in the form of BG either for the duty involved in pending exports before grant of abeyance order or full BG for duty involved in respect of fresh licences issued against abeyance orders.*

(Para 2.5)

6. *CBIC may consider having an automated alert system for expiry of EO period to ensure appropriate bond renewal/cancellation and obviate the need for depending on AHs for ascertaining EODC status.*

(Para 3.1.3.3)

7. *DGFT needs to have an effective mechanism to continuously and regularly monitor EO. Till recently, there was no system to track cases where EOP had lapsed, and RAs depended on AHs to ascertain the EODC status. To minimize possible misuse of AAs, there is a need to have validation checks in the DGFT's EDI system to address possible diversion of imported inputs through substitution of indigenous inputs.*

(Para 3.2.1.1)

8. *DGFT should review the procedure for granting revalidation and requests for revalidation should be accepted only within the validity period of the authorisation so that any duty free imports or exports reckoned for export obligation is well within the currency of the authorisation.*

(Para 3.2.1.4)

9. *DGFT should review the procedure for issuance of EODC to meet its prescribed timeline of 15 days by ensuring that the online module is realigned to accept only full and completed applications along with all the required documents.*

(Para 3.2.6.1)

10. *DGFT should implement the Message Exchange Module (MEM) across all its RAs for effective and timely exchange of information between DGFT and Customs as well as update the EODC status in its eodc.online website on a regular basis. Periodical meetings may be held in an ongoing manner between*

DGFT and Customs field formations for timely sharing of information, reconciling the EODC status and recovering the government revenue involved in the shape of duty forgone. Appropriate action may be initiated by DGFT/DoR against defaulters for not complying with the Scheme provisions.

(Para 3.3.2)

- 11. DGFT may consider fixing of time limit for issue and adjudication of SCNs in order to enforce better regulation of the adjudication process in a timely and effective manner.*

(Para 4.2)

The response of the Department to audit observations and recommendations have been incorporated in the Audit Report along with further audit comments wherever required.

BSC/SS/TT