

## CHAPTER II

### Issuance of Advance Authorisations

DGFT, in pursuit of its objectives of better trade facilitation and paperless processing as envisaged in FTP 2015-20, introduced system driven receipt of applications and issue of licences with minimum interface between RAs and exporters. 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. The automated system developed for the AA Scheme required, during the period covered in audit, manual intervention, thereby leading to avoidable physical interface and discretion in the hands of authorised officials, resulting in significant delays in issuance of AAs. AAs based on no-norms which are finalized by the NCs at DGFT Headquarters remained manual.

65 per cent of AAs issued during the period from 2015-16 to 2018-19 were SION based and the remaining 35 per cent pertained to the no-norms category which are required to be finalized by the concerned NCs; the sample selected for review was accordingly drawn in the same proportion. However, out of the total 1,422 AAs commented in this chapter, 621 AAs were SION based (44 per cent) and the remaining 801 AAs belonged to the no-norms category (56 per cent). Thus, most of the audit issues related to the AAs issued under the no-norms category, even though this constituted only about one-third of the total AAs.

The audit findings further indicated the deficiencies in the automated system as well as in the manual system in achieving the objective of simplification of procedures and ease of doing business, as summarized below:

- Review of staffing pattern in DGFT(Para 2.1);
- Delay in issuance of AAs (Para 2.2);
- Lack of timely review/update of SION (Para 2.3);
- Irregularities in fixation of norms by NC (Para 2.4);
- Inadequate monitoring of Denied Entity List (DEL) (Para 2.5);
- Irregular issuance of AAs to ineligible applicants (Para 2.6);
- Irregular issuance of AAs on ineligible supplies (Para 2.7);
- Other irregularities (Para 2.8)

#### **2.1 Review of staffing pattern in DGFT**

Audit reviewed the staffing pattern and vacancy position at DGFT Headquarters as well as its field formations (RAs) to ascertain the extent of staff shortages with potential for impacting the ability of DGFT in ensuring effective implementation and monitoring of AA Scheme.

It was noticed that over the period 2015-16 to 2018-19 the vacancy position at DGFT Headquarters increased from 43 per cent to 47 per cent, despite a decrease in the Sanctioned Strength (SS) by 9.4 per cent as detailed below:

**Table 2.1 : PIP vis-à-vis SS<sup>7</sup> in DGFT Headquarters**

Year	Gazetted		Non Gazetted		Total		Vacancy
	SS	PIP	SS	PIP	SS	PIP	Number (per cent)
2015-16	155	97	343	188	498	285	213 (42.7)
2016-17	155	93	343	172	498	265	233 (46.7)
2017-18	147	85	343	185	490	270	220 (44.8)
2018-19	147	83	304	154	451	237	214 (47.4)

Despite the fact that audit requested for SS and Person-in-Position (PIP) at RA level for the period 2015-16 to 2018-19, DGFT shared the incumbency position only as of 30 June 2021 wherein PIP was 775 against the sanctioned strength of 1,849 with vacancies of 1,074 (58 per cent) as detailed below:

**Table 2.2 : PIP vis-à-vis SS at RA level**

Criteria	Gazetted		Non-Gazetted		Total		Vacancy
	SS	PIP	SS	PIP	SS	PIP	Number (per cent)
Incumbency position as on 30 June 2021	211	153	1638	622	1849	775	1074 (58.0)

As can be seen above, 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 FTP.

***Recommendation No. 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.***

## 2.2 Delay in issuance of AAs

PN 16/ 2015-2020 dated 4 June 2015 read with Para 9.10 of HBP 2015-2020, prescribes the time limit of “three days” for disposal of applications in respect of AA Scheme, from the date of receipt of the online application. The same timeline was also promulgated in the DGFT Citizen’s Charter document.

For achieving the targeted timelines, DGFT envisaged uploading of all the prescribed documents in Aayat Niryat Forms (ANF) 4A at the time of online filing

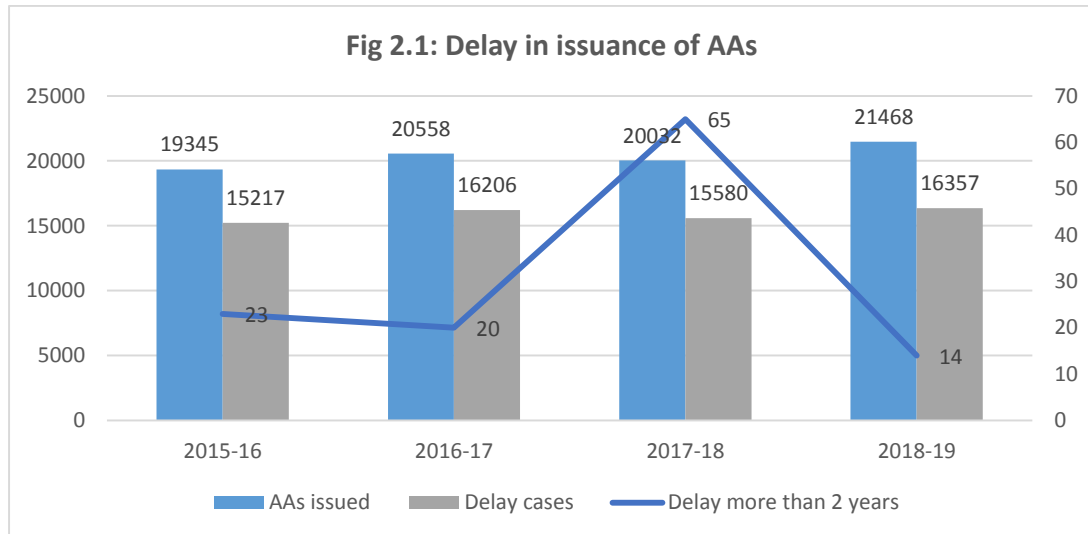
<sup>7</sup> SS- sanctioned Strength; PIP-Person in Position

of application vide Para 4.02 of HBP 2015-2020 and no physical copy of application was required to be submitted to the RAs.

It was however noticed that only the receipt of application was automated and the mandatory online filing of documents along with application, though envisaged in April 2015 could only be implemented in May 2019 vide Policy Circular no. 23/2015-20. All the prescribed documents were being submitted physically in all the sampled cases selected by audit and the RAs processed the applications only after receipt of the hard copy of the documents.

Audit examined the success of facilitation measures vis-à-vis timelines prescribed and observed delay as detailed below:

1. Analysis of data on AAs issued by the selected 23 RAs revealed delay in 63,360 cases out of a total of 81,403 AAs (77.83 per cent) issued during the period covered in review (2015-16 to 2018-19) as detailed below:

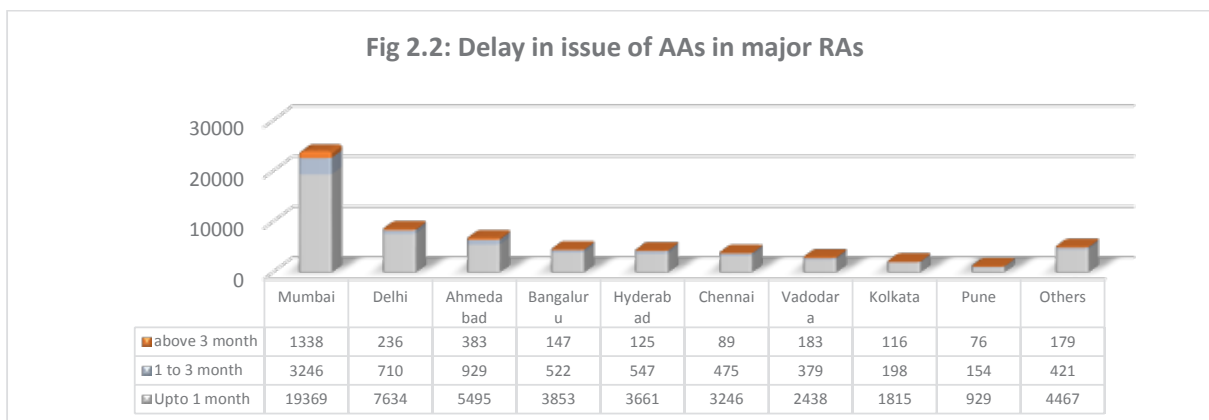


The delay ranged from four days to 2,349 days with delays upto 1 month in 52,907 AAs, upto 3 months in 7,581 AAs, upto two years in 2,750 AAs and more than 2 years being observed in 122 AAs (**Annexure 1A**). Year-wise, delay was observed in 15,217 licences (78.66 per cent) during 2015-16, 16,206 licences (78.78 per cent) during 2016-17, 15,580 licences (77.78 per cent) during 2017-18 and 16,357 licences (76.19 per cent) during 2018-19, as detailed below:

**Table 2.3: Age-wise analysis of delay in issuance of AAs**

Year	Total AAs issued	Delay of					
		4 days-1 month	1-3 months	3-6 months	6-12 months	1-2 years	more than 2 years
2015-16	19345	12417	1979	485	220	93	23
2016-17	20558	13527	1984	397	200	78	20
2017-18	20032	13120	1758	392	164	81	65
2018-19	21468	13843	1860	414	162	64	14
<b>Total</b>	<b>81403</b>	<b>52907</b>	<b>7581</b>	<b>1688</b>	<b>746</b>	<b>316</b>	<b>122</b>

The analysis of nine RAs having major delays is given below in the graph:



While the majority of delays are less than one month, there are significant delays beyond one month too. The prescribed time limit of three days remained undelivered by a substantial margin.

2. Review of 3,497 sampled cases in 20 of the 23 RAs selected for Audit, revealed delay in 1,012 cases with delays ranging from four days to 2,199 days. The profile of delays in the sampled cases is lower than the overall population, but since our sampling focused on higher value cases, the profile of delays in lesser value cases was even higher, causing unjustified hardship to smaller exporters. In the case of three RAs (Cochin, Chandigarh and Ludhiana), no delays were observed in the selected sample. In 792 out of the total 1,012 delayed cases, no Deficiency Letter (DL) was issued and there were no ostensible reasons for delay in issuance of AAs which should have been issued in three working days **(Annexure 1B)**.

The main reasons for delay were requirement of submission of physical documents after filing of online applications, inadequate monitoring of Denied Entity List (DEL) etc., which delayed the issuance of AAs.

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. 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. Till then, all the prescribed documents were being submitted physically which defeated the purpose of facilitating an online system besides resulting in inordinate delays in issuing of AAs despite having prescribed timelines.

**Recommendation No. 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.***

DGFT stated (February 2021) that a new IT system was launched on 1 December 2020 wherein all required documents need to be uploaded online, deficiencies and their responses to be handled online, authorisations issued online and the data being transferred to Customs seamlessly thereby making the scheme paperless.

The period covered during the audit was 2015-16 to 2018-19; therefore, the status of implementation and progress in this regard, would be reviewed in subsequent Audits.

### **2.3 Lack of timely review/update of Standard Input Output Norms (SION)**

Under the Advance Authorisation Scheme, the quantity of inputs allowed for a given product is based on specific norms defined for that export product, which considers the wastage generated in the manufacturing process. DGFT provides a sector-wise list of Standard Input-Output Norms (SION) under the Handbook of Procedures (HBP Volume-II).

It was observed that the SION was last notified by DGFT in May 2009 vide HBP 2009-14 (Volume-II). Thereafter, no comprehensive review of 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. However, SIONs were introduced/revoked/modified on a case to case basis, by means of public notices, based on representations from trade.

***Recommendation No. 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.***

### **2.4 Norms Committees (NCs)**

Para 4.03 of FTP stipulates that AAs are issued for inputs in relation to the resultant product on the basis of notified SION which is available in the HBP. Para 4.06 of HBP provides for fixation of norms by NCs in DGFT Headquarters for cases where norms have not been notified. Applicants have to apply online in ANF 4B, along with prescribed documents to the concerned NC.

#### **2.4.1 Constitution of NCs**

In order to understand the working of NCs and also to ascertain possible reasons for delays in fixation of norms by NCs, Audit requested DGFT to furnish the details of NC composition, manpower, Committee wise workload and backlog. DGFT stated (July 2021) that there were seven NCs at DGFT for major commodities eg. (plastics & rubber, chemical products, pharmaceuticals products, engineering products (group A & B), textile & leather and marine,

foods & misc.). Applicants under no norms category have to approach the respective NCs through the jurisdictional RAs. The composition of NCs includes Chairperson, Convenor, representatives from the Ministry of Finance, Directorate of Drawback, Department for Industrial Policy and Promotion (DIPP), representative from the Ministry/Department concerned, concerned export promotion council/commodity board and any other technical authority that the Chairperson may like to invite.

The pendency position with the NCs are detailed below:

**Table 2.4: Pendency position with NCs (NC-1 to NC-7)**

Period	Opening Balance	Number of application received for fixation	Number of application approved	Number of applications rejected	Closing Balance pending for fixation	Pendency percentage
2015-16	3660	5280	3820	349	4771	53.36
2016-17	4771	5306	4406	470	5201	51.61
2017-18	5201	5083	2932	274	7078	68.82
2018-19	7078	5345	6326	491	5606	45.12
2019-20	5606	3996	Not given	not given	6044	62.95
<b>Total</b>		<b>25010</b>	<b>17484</b>	<b>1584</b>		

Audit reviewed the pendency position of Advance Authorisation applications with the Norms Committees. As on 31<sup>st</sup> March 2019, the pendency was 5606 which increased to 6044 by 31<sup>st</sup> March 2020 (7.8 per cent). It was the highest (69 per cent) during 2017-18. NC-wise, pendency was observed mostly in NC-3 (Chemical products) and NC-4 (Pharmaceuticals products) wherein pendency as on 31<sup>st</sup> March 2019 was 1,286 and 938 respectively.

Review of authorisations issued during the period from 2015-16 to 2018-19 revealed that 65 per cent of AAs were SION based and the remaining 35 per cent pertained to the no-norms category which are required to be finalized by the concerned NCs. The sample selected for review was accordingly drawn in the same proportion. Test check of selected sample revealed the following inconsistencies:

#### **2.4.2 Delay in fixation of norms by NC**

Para 4.16(i) of HBP 2015-20 states that norms, as applied for, may be treated as final, if the norms are not finalized by NCs within four months from the date of receipt of complete application along with documents / technical details as specified in Appendix 4E.

The provision regarding deemed treatment of applied norms as final was subsequently deleted in December 2017.

Audit reviewed 3,139 cases in nine RAs and found exceptions in 2,113 cases (67 per cent). A few cases of non/delayed fixation of norms as observed at RA level are highlighted hereunder:

Table 2.5 : Non/delayed fixation of norms by NCs

S/No	Name of the RA	No. of cases	Delay range	Remarks
1	Mumbai	2030	Upto 16 years	Test check of licences issued during the period FY16 to FY19 revealed inconsistencies in Management Information Systems (MIS)-3 report viz., 136 files were already redeemed, NC approved in 10 cases and refusal orders issued in 12 cases and yet all these licences featured in the MIS-3 as pending for norms approval with NCs.
2	Delhi	24	19 to 65 months	In 17 cases, EOP was already over, even after considering two extensions allowed under the scheme.
3	Hyderabad	31	4 to 33 months	In 16 out of 31 delayed cases, quantity of input fixed by the NC was less than the quantity applied by the exporters; however, AH in the intervening period had already imported goods against these AAs.
4	Visakhapatnam	9	48 months (till May 2021)	Not yet fixed in any of the cases. In six other cases, nothing was found on record to suggest that NC was approached for fixation of norms.
5	Kolkata	8	68 months (till May 2021)	AH imported goods against each Authorisation, though the cases have neither been finalized by NC nor any letter/ Show Cause Notices (SCNs) issued by RA to the AH for regularization, even after three years from the expiry of EOP.
6	Kanpur	3	66 months (till May 2021)	Not yet fixed in any of the cases. RA kept pending issue of EODC on the basis of non-finalization of norms by NC.
7	Bengaluru	3	66 months (till May 2021)	The EO period expired in all these cases and AH could not submit the closure/EODC applications as the SION approval/norms ratification was still pending with DGFT. In one case, M/s. A Ltd. approached RA Vadodara for EODC as Customs held its export consignment due to pendency of its redemption/ EODC application. However, EODC is pending due to non-fixation of norms by NC.
8	Vadodara	2	65 months (till May 2021)	
9	Jaipur	3	50 months (till May 2021)	
<b>Total</b>		<b>2113</b>		

Scrutiny revealed that the major reasons for delay in fixation of norms were delayed listing of cases in the agenda of NC meetings and also delays in furnishing of technical opinions/comments from Competent Authorities of the concerned Ministry/Department/Technical Experts. Besides, non/late receipts of application from RAs to the NC also added to the overall delay.

**Recommendation No. 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.**

DGFT stated (February 2021) that pendency is being reviewed periodically at Headquarters and all NCs have been asked to expedite the fixation of norms. The revamped IT Systems effective from 1 December 2020 is envisaged to be paperless wherein intermediate stages viz., forwarding application to NCs, Comments of Technical Authorities and its responses would be handled online and the prescribed time limit of four months for fixation of norms is expected to be achieved.

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. With non-finalization of norms in time, EODC cannot be issued to exporters within the prescribed period, which results not only in blocking of bonds and BGs but also increases non-fulfillment of EO cases. Further, this also delays the initiation of proceedings against the firms by RAs and Customs Authorities for making recovery of Customs duty and interest thereon for default cases besides penalizing genuine AHs, who are not getting EODCs even after complying with all the stipulated conditions. Progress of implementation of the new IT systems will be reviewed in subsequent Audits.

#### 2.4.3 Non-existence of maximum time limit to represent a case

Para 4.17 of HBP 2015-20 stipulates that the applicant may represent against the decision of the NC with regard to fixation of norms within 90 days from the date of hosting of decision on DGFT site. Representation beyond 90 days shall be subjected to payment of composition fee of ₹5000/-.

RA Bengaluru issued (September 2015) AA to M/s. B Ltd. under “no norms” category, which was to be ratified by NC. NC rejected (August 2018) the case and the firm submitted (October 2018) a representation for review of NC decision, which is still pending. The EO period was upto March 2017. No response was given by the firm to the RA when asked (January 2019) to regularise the case by paying duty on the imports made, as the case for “no norms” was rejected by the Committee. No further action has been taken by the RA till date.

Test check by CLA Delhi revealed that in three cases, the applicant represented after 216 to 1,118 days from the date of decision made by NC and all the three cases are still under consideration with NC.

RA Bengaluru stated that firm had represented to the NC against the rejection as per provision of HBP 2015-20. Reply from CLA Delhi is awaited.

There is no maximum time limit in the FTP/HBP to represent against the decision of NCs resulting in delay in the initiation of proceedings against AH by RAs and Customs Authorities for making recovery of Customs duty and interest thereon.

***Recommendation No. 5: DGFT may consider prescribing a time limit within which appeals for reviewing NC decisions can be made.***



DGFT while appreciating the recommendation stated (February 2021) that this would be examined in detail at the time of bringing out the next FTP.

#### 2.4.4 Excess Import entitlements approved by NC

Excess imports approved by NCs or delay in approving of norms by NCs were observed in seven of the 893 AAs audited, involving duty recoverable amounting to ₹2.04 crores in three RAs as given in the table below:

**Table 2.6 : Excess import entitlements approved by NC**

S/ No	RA	Name of the Firm	Number of AAs	NC Decision	Excess imports (₹ in lakh)	Remarks
1	Jaipur	M/s. C Ltd.	1	August 2018	147.80	NC decision came after 19 months restricting wastage to 5 and 2.9 per cent whereas the firm claimed 32 per cent
2	Mumbai	M/s. D Ltd.	3	April 2016	48.87	AA issued under no norms repeat basis but Appendix 4E and previous three years declaration revealed that the consumption of input was less than the norms fixed by NC
3	Delhi	M/s. E & F	3	All three AAs redeemed by CLA	6.98	Comparison of imported inputs to that actually consumed in production of exported quantity revealed excess imports
<b>Total</b>			<b>7</b>		<b>203.65</b>	

DGFT stated (February 2021) that CLA Delhi recovered ₹8.94 lakh, and RA Mumbai and Jaipur have initiated action against the firms to recover the applicable customs duty.

#### 2.4.5 Non-payment of Customs Duty on rejection of AA application for norms

As per para 4.07 (i) of HBP, RA may issue AA where there is no SION/valid adhoc norms for an export product or where SION/adhoc norms have been notified/published but exporter intends to use additional inputs in the manufacturing process, based on self-declaration by the applicants. In case of revision/rejection, applicant shall pay duty and interest as notified by DoR within thirty days from the date of hosting of NC decision on DGFT website.

RA Mumbai issued (June 2018) AA to M/s. G Ltd. under “no norms” category and the case was referred to NC. It was seen that NC rejected (September 2018) the norms stating that “technical inputs are not available from the Department/Ministry, concerned”. The applicant was advised to adopt the drawback route<sup>8</sup> and not the Ad-hoc AA route. Henceforth, the RA was directed not to issue any fresh AA on Ad-hoc norms basis for such export product.

As NC rejected the norms, the AH was required to pay import duties on all import and regularize the licence. However, RA extended the validity of AA by six

<sup>8</sup>Duty drawback is provided under Customs Act whereby the exporters get the refund of taxes paid on inputs used in the export goods. This drawback is given at Scheduled rates fixed on year-to-year basis. The exporters who use the Scheme of Advance authorisation are not entitled to opt for drawback route. Even if they want to claim drawback on some inputs which are domestically procured on payment of duties, the exporter is required to state their intention of claiming drawback on such inputs at the time of application to authorization.

months (from June 2019 to December 2019) and the applicable duty of ₹3.52 crore on imports of CIF ₹23.49 crore made against the AA is still recoverable.

The same unit was issued (June 2017) AA and case referred to NC for fixation of norms. NC rejected the norms and therefore duty forgone estimated at ₹7.03 crore should have been recovered.

Similarly in RA Kochi, in two out of four cases rejected by NC, the AH did not pay Customs duty of ₹24.50 lakh forgone on import of inputs involving CIF value of ₹1.06 crore. Further, in one case, RA revalidated the Authorisation for a further period of six months even after rejection by NC, which is not in order.

DGFT, in respect of RA Mumbai, stated (February 2021) that the matter was being taken up with NC concerned and in respect of RA Kochi, demand notices had been issued against the firms to pay the applicable customs duty.

#### **2.4.6 Fixation of norms without certificate of Chartered Engineer (CE)**

As per Paragraph 4.06 of HBP 2015-20, in case where SION have not been notified, application in ANF 4B, along with prescribed documents shall be uploaded online to the NC concerned in DGFT for fixation of norms. For fixation of SION, Technical data sheet (Appendix-4E) and CE certificate (in Appendix-K) are required to be submitted by the exporter.

In eight of the selected sample of 335 AAs (2 per cent) reviewed in RA Ahmedabad, it was seen that none of the exporters submitted the prescribed Appendix-4K (CE certificate for fixation of SION) in any of the applications; however, NC fixed norms in all the authorisations. Based on these SION, import/exports were effected by the exporters and EODC was issued by the RA in five out of eight cases while remaining three cases are pending for EODC. This resulted in irregular fixation of SION without Appendix 4K in eight Authorisations involving total CIF value of ₹164.28 crore.

RA Ahmedabad stated (November 2020) that fixation of adhoc norms are done by respective NCs. The reply of RA is not acceptable as SION was fixed without the required CE Certificates.

#### **2.4.7 Applying for fixation of norms within the validity period of earlier norms on same Export/Import**

Para 4.12 of HBP stipulates that when NC ratifies norms for the same export and import products in respect of an authorisation obtained under self-declaration norms, such norms shall be valid for a period of two years reckoned from the date of ratification and the same applicant can avail repeat authorisation based on such adhoc norms. DGFT vide PN 64 dated 27 December 2018 amended Para 4.12 of HBP and stated that norms ratified by NCs shall be valid for the entire period of the FTP i.e. up to March 2020 or for a period of three years from the date of ratification, whichever is later. Since all decisions of the NCs are available in the form of minutes on the DGFT website, all other applicants of Advance

Authorisation are also eligible to apply and get their authorisations based on such ratified norms on repeat basis during validity of these norms.

RA Mumbai issued (April and June 2018) two AAs to M/s. H Ltd., based on two different norms fixed by NC for same export/import to the same firm during May and June 2018.

Similar observation was made in RA Kanpur where although the firm, M/s. I Ltd. applied (July 2016) for AA under repeat basis based on norms finalized for the same import/export previously in January 2015, RA forwarded (July 2016) the case to NC for fixation of norms, which is still pending even after lapse of four years.

DGFT stated (February 2021) that only 2 per cent wastage was allowed in the norms and any other benefits taken by the AH would be recovered.

RAs should have allowed the successive AAs on repeat basis as NC had already ratified the same export/import norms for the same company previously and NC, wherein huge pendency are already existing, could have returned the application as norms were already fixed and are valid for the next two years/extended period as revised.

#### 2.4.8 Other Inconsistencies in the fixation of norms by NC

Other inconsistencies in fixation of norms were observed in three RAs (Ahmedabad, Kochi and Pune) in respect of nine AAs involving duty foregone amounting to ₹4.24 crore as detailed below:

**Table 2.7 : Other inconsistencies in fixation of norms**

S/No	RA	Name of the Firm	No. of AAs	Item description	Duty Foregone (in lakh)	Remarks
1	Ahmedabad	M/s J Ltd	2	Direct brown SBR (Dye)	398.62	RA issued EODC (October 2018) even though there was inconsistency in fixation of SION by NC for the same quantity of exports for two AAs and non-furnishing of central excise consumption certificate to NC despite its insistence.
2	Kochi	M/s K Ltd	1	Capsaicin Powder	25.58	As per the ANF 4F, 42.50 per cent of imported inputs remained unutilized. However, NC disposed (July 2019) the case, directing RA to redeem the AA based on Sample Analysis Report (SAR) of Spice Board, Cochin. The import item does not fall in the category of Spices and therefore does not come under the purview of Spice Board. No action was taken by RA, Kochi and also the case is pending with Customs Department.
3		M/s L Ltd	5	Refined oleoresin Paprika	-	RA issued EODC even though the export item was not compatible with SION E-95.
4	Pune	M/s. M Ltd	1	Knitted Sweaters	-	Applied to NC even though SION norms 71/161 exists
<b>Total</b>			<b>9</b>		<b>424.2</b>	

DGFT stated (February 2021) that the matter was under examination and demand notices issued. It would be ensured that norms would be fixed expeditiously and excess imports, if any, would be recovered.

### 2.5 Inadequate monitoring of Denied Entity List (DEL)

Para 2.15 (c) of FTP 2015-20 read with Rule 7 of the FTDR Rules, 1993 states that for contravention to law relating to Customs or foreign exchange, default of EO and in case of fraud and mis-declaration, an entity can be placed under DEL. On issuance of such order, for reasons to be recorded in writing, a firm may be refused grant or renewal of licence, certificate, scrip or any instrument bestowing financial or fiscal benefits. Para 2.15 (d) of FTP states that DEL order may be placed in abeyance, for reasons to be recorded in writing by RAs for a period not more than 60 days at a time. Further, Para 2.15 (e) enables RAs to remove a firm's name from DEL, for reasons to be recorded in writing, if the firm completes EO/pays penalty/fulfils requirement of Demand Notice(s) issued by the RA/submits documents required by the RA.

Therefore, DEL mechanism helps RAs to refuse authorisations to applicants who have not complied with conditions of previous authorisations/procedures of FTP and HBP and deny the benefit to such firms. The following irregularities were observed in 193 (19 per cent) of the 1,033 cases audited:

**Table 2.8 : Inadequate monitoring of DEL**

S/ No	Name of the RA	Number of AAs	Remarks
1	Hyderabad	175	RA placed three firms under DEL for non-compliance to Authorisations after more than 10 years from the date of placing the exporter in DEL. Meanwhile, the same firms were issued 175 AAs (150-redeemed and 25-unredeemed) involving CIF value of ₹712.32 crore
2	Mumbai	12	RA issued 12 fresh licences with CIF value of ₹123.91 crore by putting 68 DEL orders in abeyance in respect of two firms despite the fact that multiple DEL orders were issued for non-compliance to statutory provisions viz., non-submission of export documents, etc.
3	Ahmedabad	3	RAs issued five licences with CIF value of ₹43.52 crore to five firms under DEL without issuing formal abeyance orders as specified in DGFT Circular (December 2003) for management of DEL cases.
4	Pune	2	
5	Kanpur	1	RA issued AA with CIF value of ₹5.38 crore without recording any reasons, even though the firm had been placed under DEL list by RAs Kolkata and Vadodara. It was noticed that after a lapse of 20 months from the expiry of EOP, the RA listed the AA holder on DEL (July 2019) and asked Customs Port (ICD-JRY Kanpur) for utilization of licence (November 2019). However, scrutiny of Customs port records revealed that the licence was not registered at the Port.
<b>Total</b>		<b>193</b>	

DGFT stated (February 2021) that abeyance is given to IEC and not to the individual files. Therefore, once abeyance is given, all files in DEL under the said

IEC are deemed to have been non-operational. The matter is under examination and status will be intimated in due course.

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. As seen from the above instances, abeyance orders were issued without recording any reasons and AAs were issued to DEL status without issuing abeyance orders. Further, there is no limit fixed for the number of abeyance orders that can be issued to an exporter under the extant rules/procedures. DGFT last uploaded the DEL on its website in March 2021, wherein penalties imposed since 21 October 2016 were indicated.

Besides, there is no mechanism for the RA to know if the applicant has been penalized under 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 based on the self-declaration of the applicants.

***Recommendation No. 6: 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.***

DGFT stated (February 2021) that ECA Division have issued (January 2021) Model Guidelines and Timelines to all RAs for Adjudication Proceedings under FTDR Act. The new IT System was being put in place for comprehensive monitoring of adjudication proceedings.

Response of DGFT is not pertinent, as monitoring of DEL and issue of abeyance orders are not part of the adjudication process.

## **2.6 Irregular issuance of Authorisations to ineligible applicants**

Audit reviewed 2,555 cases in six RAs and found the following deficiencies in 56 cases (two per cent):

### **2.6.1 Issue of Authorisations to Small Scale Industries (SSI) units beyond its capacities**

RA Pune issued 18 Authorisations (nine each to M/s. N Ltd. and M/s. O Ltd.) from August 2015 to May 2016 permitting import of copper rods with CIF value of ₹132.28 crore with duty saved amounting to ₹29.64 crore.

Scrutiny of records revealed that both the firms based in Kondhwa, Pune were having SSI registration, whose turnover as per Central Excise provision are expected to be within ₹one and half crore only. None of the firms had any past

export performance nor had they effected any exports against the AAs issued though their EOP expired way back in August 2017. SCNs have been issued to both the firms.

It was seen from publically available information that Directorate of Revenue Intelligence (DRI) booked (press release dated 31 December 2018) cases on exporters based in Pune having units in Kondhwa and Baddi misusing AA Scheme to import copper rod with CIF value of ₹173 crores involving Customs duties of ₹40 crore. These units in fact had no manufacturing facilities and they diverted their inputs into open market.

Issuing of 18 authorisations without checking of credentials, past performances and annual capacities and allowing duty free imports valuing ₹132.28 crore within a span of 10 months to small units, applying for the first time is fraught with the risk of being misused.

In a similar observation, RA Mumbai issued 15 AAs to three SSI Unit (M/s. P Ltd., M/s. Q Ltd. and M/s. R Ltd.) who were applying for the first time and who did not have any past export performance, for importing goods with CIF value of ₹92.38 crore with duty saved amounting to ₹20.48 crore. Two firms failed to fulfill EO even though the EOP had already expired and the third firm has not submitted any proof of export performance so far.

DGFT stated (February 2021) that FTP does not comment on credentials of exporters having SSI units with no export performance. Based on DRI's reference, the firm has been put under DEL. SCNs have been issued to the two firms and progress in the matter would be updated. Response in respect of other three Mumbai based firms is awaited.

***Recommendation No. 7: DGFT needs to put in place a mechanism for verifying credentials of exporters before issuing multiple AAs to firms (especially SSI Units with no past export performance) seeking to import/export goods for the first time. Further, DGFT should verify completion of EODCs in respect of earlier AAs, if any, before issuing fresh AAs.***

DGFT stated (February 2021) that extant provisions have value limitations for AAs issued on self-declaration basis. DGFT quoted Customs Circular 58/2004 (October 2004) wherein revenue interest is protected by imposing BG and there appears no need to verify credentials before issuing multiple AA in every case.

The value limitation is prescribed for AAs on self-declaration basis and not for all categories of AAs i.e, SION based, self-ratification scheme, applicant specific prior fixation of norms and self-declaration scheme. As SSI registration is expected to have turnover of only ₹one and half crore, firms applying for multiple AAs without having any past exports records are fraught with the risk of misuse as evident from DRI's reference. It would be prudent to verify the credentials in such instances. On being ascertained whether the BG of 15 per

cent or enhanced value was taken, DGFT stated that the matter pertained to DoR and comments of DoR may be obtained. Response of DoR is awaited.

### 2.6.2 Issuance of AAs to ineligible firms

As per rule 4.42 (a) of HBP, the period for fulfillment of EO under AA shall be 18 months from the date of issue of authorisation and as per rule 4.44 (b) of HBP, AH shall file an application online by linking details of shipping bills against the authorisation within two months from the date of expiry of the EO period. In case AH fails to complete EO or fails to submit relevant information/documents, RA shall enforce the condition of authorisation and Undertaking and also initiate penal action as per law, including refusal of further authorisation to the defaulting exporter.

CLA Delhi and RA Jaipur issued fresh licences with CIF value of ₹52.07 crore involving duty foregone of ₹13.94 crore despite the fact that AH had not furnished the required documents of redemption of previous pending five AAs. In CLA Delhi, the applicant while applying for the new licence stated in its declaration that the previous EO were not fulfilled even though the prescribed EO period had expired.

RA Jaipur replied (March 2020) that the said file was sent to the record branch without reviewing with the redeemed files bundle and the firm has already submitted documents towards redemption of the case and DL/reminders already sent to the firm for furnishing the required documents. CLA Delhi replied (August 2020) that firm was not in DEL and therefore AAs were issued with conditions.

Reply is not acceptable as new authorisation issued to the ineligible firm was in contravention of provision of Rule 7 of Foreign Trade (Regulation) Rules, 1993.

The aim of the AA Scheme is to allow duty free imports of inputs to promote export to earn net foreign exchange. Issuing of new licences to a firm in the absence of non-fulfillment of export obligation of previous AAs in a timely manner defeats the very purpose of the Scheme.

***Recommendation No. 8: DGFT may reiterate its instructions to RAs on monitoring of non-furnishing of redemption documents of pending AAs by the AH, before issuing fresh AAs.***

DGFT stated (February 2021) that autofill feature has been implemented and necessary instructions have been reiterated to RAs for due monitoring of non-furnishing of redemption documents of pending AAs.

The period covered during the audit was 2015-16 to 2018-19; therefore the status of implementation and progress in this regard, would be reviewed in subsequent Audits.

### 2.6.3 Issue of Authorisations to entities with no/relevant RCMC

As per Para 2.94 (a) of HBP, while applying for RCMC<sup>9</sup>, an exporter has to declare his main line of business in the application. The exporter is required to obtain RCMC from the Council which is concerned with the product of his main line of business. As per Para 2.94 (b) in case an export product is not covered by any Export Promotion Councils (EPC)/Commodity Board etc., RCMC is to be obtained from the Federation of Indian Exports Organisation (FIEO). While applying for AA, details regarding RCMC are required to be mentioned by the applicant in ANF 4-A.

Review of RCMC in 927 cases in two RAs (Mumbai and Pune) revealed that exporters did not have RCMC issued by the relevant EPC in nine authorisations involving duty foregone of ₹51.96 crore as detailed below:

**Table 2.9 : Issue of AAs based on no/relevant RCMC**

S/ No	Name of RA	No of AAs	Duty foregone (₹ in cr)	RCMC required from	RCMC taken from	Remarks
1	Mumbai	1	11.77	Synthetic & Rayon Textiles Export Promotion Council (SRTEPC),	Cotton Textiles Export Promotion Council	Exporters of polyester and viscose based textiles were required to obtain RCMC from SRTEPC
2	Mumbai & Pune	8	40.19	Engineering Export Promotion Council (EEPC), Chemical and Allied EPC, Plastic EPC, Agricultural and Processed Food Products Export Development Authority	FIEO	Exporters had taken RCMC from FIEO instead of applicable certificate from relevant councils
<b>Total</b>		<b>9</b>	<b>51.96</b>			

RA Mumbai and Pune stated that cases where exporters have multiple products, RCMC from FIEO was acceptable as per extant provisions.

Reply is not acceptable as in cases of multiple products, RCMC is to be taken from specified council concerned with the product of its main line of business.

### 2.6.4 Irregular issue of AA and Non-fulfillment of actual user condition

Para 4.16 of FTP 2015-20 specifies that the AA and/or material imported under AA shall be subject to "Actual User" condition. The same shall not be transferable even after completion of EO.

<sup>9</sup>RCMC is Registration cum Membership Certificate which is granted by various Export Promotion Councils (EPCs). This is a mandatory requirement for grant of AAs. Para 2.94 of HBP stipulates that RCMC is to be taken from the Council which is concerned with product of applicant's main line of business. In case an export product is not covered by any Export Promotion Council/Commodity Board etc., RCMC in respect thereof is to be obtained from FIEO.



RA Kolkata issued three AAs to M/s. S Ltd. as Merchant Exporter with Baddi, Himachal Pradesh unit of M/s. T Ltd. endorsed as supporting manufacturer in the AA. It was observed in audit that M/s. S Ltd. itself is registered as a manufacturer exporter as per RCMC. Besides, the address, phone, e-mail, fax and website was the same for both the firms (M/s. S Ltd. and M/s. T Ltd.). The goods were exported by M/s. T Ltd. located in Ahmedabad whereas AAs were issued for manufacturing by the other plant located in Baddi, Himachal Pradesh. Export documents (SB/BRCs/Invoices) nowhere reflected the name of the supporting manufacturer (M/s. T Ltd.) and the condition of actual user condition was therefore not fulfilled by M/s. S Ltd. Hence, availing of duty exemption of ₹24.25 lakh was irregular, which needs to be recovered along with interest.

RA Kolkata subsequently redeemed the three AAs issued to M/s. S Ltd. without verification of tie-up agreement and the correctness of the declaration of the firm as a merchant exporter.

DGFT stated (February 2021) that response from RA Kolkata is awaited.

## 2.7 Irregular issuance of Authorisation on ineligible supplies

### 2.7.1 Issue of AA on supplies made to other AH and spices

Para 4.05(c)(iii) of FTP specifies the goods for which AA shall be issued and excludes supply of goods under category 7.02(a) i.e., AA shall not be issued for supply of goods to another holder of AA. Similarly, Para 4.11(iii) of FTP states that "all Spices other than light black pepper (light berries) having a basic Customs duty of more than 30 per cent classified under Chapter 9 and 12 of ITC (HS) book" are not eligible for Advance Authorisation to import on self-declaration basis.

Irregularities in issue of AAs in respect of intermediate supplies and spices were observed in RA Mumbai and RA Kochi as detailed hereunder:

**Table 2.10 : Irregularities in issue of AAs on intermediate supplies and spices**

S/No.	RA	Number of cases	Amount involved (₹ in cr)	Remarks
1	Mumbai	1	2.22	RA issued (October 2017) an AA to M/s. U Ltd. for supply of materials with FOB Value of ₹21.78 crore to three other AHs under category 7.02(a), which is not allowed.
2	Kochi	1	1.15	RA issued (July 2016) an AA to M/s. V Ltd. on self-declaration basis for import of Light White Pepper which attracts Customs duty of 70 per cent. As the duty was more than the prescribed limit allowed under the scheme, the firm was therefore not eligible for grant of AA. The firm however imported White Pepper berries with CIF value of ₹143.33 Lakh against the licence.
<b>Total</b>		<b>2</b>	<b>3.37</b>	

DGFT, in respect of intermediate supplies pertaining to RA Mumbai, stated (February 2021) that AA can be issued to intermediate supplies i.e., supplies to other AHs as per Para 4.05(ii) of the FTP. Since it is already mentioned in Para 4.05(c)(ii), the same is not mentioned against serial No. 4.05(iii) to avoid duplication and confusion. In respect of RA Kochi, DGFT stated (February 2021) that demand notice has been issued to the firm.

The reply in respect of RA Mumbai is not tenable as Para 7.02(a) is not included in Para 4.05(iii) in the new FTP 2015-20.

### **2.7.2 Issue of AA for Export of Special Chemicals, Organism, Materials and Technologies (SCOMET) Items**

Para 4.18 (v) of FTP r.w. Para 4.27 (c) of HBP stipulates that export of restricted SCOMET items shall be subject to all conditionality or requirements of export Authorisation or permission, as may be required, under Schedule 2 of ITC (HS), which include requisite SCOMET Authorisations to be obtained from DGFT.

Further, while applying for AA, the firm gives an undertaking/declaration to the effect that list of SCOMET items as contained in Appendix 3 to the Schedule 2 of the ITC (HS) Classifications of Export-Import Items, 2004-09 has been perused and that the item(s) exported / proposed to be exported does not fall within this list.

RA Bengaluru issued six AAs involving CIF value of ₹150.60 crore to M/s. W Ltd. Limited for export of components of aircrafts under aerospace category. However, on verification the exported goods were found to be components of military aircraft and coming under the category of SCOMET (Sl. No. 5D001 of appendix 3 to schedule 2 of ITC (HS)) item. Therefore, the firm should have filed the application for export authorisation in ANF-2E to DGFT and should have got permission letter (SCOMET authorisation) for obtaining export authorisation from the concerned Zonal/Regional office of the DGFT. However, it was observed that the firm had submitted application for AA directly without taking approval for the same from DGFT, and RA issued Authorisations too, without verification of the application/documents properly, in contravention of policy. Besides, the firm is liable to penal action under FTDR Act 1992 for giving wrong declaration in this regard.

DGFT stated (February 2021) that the firm gave an undertaking assuring that the items exported are not covered under SCOMET and it is the responsibility of the firm to obtain SCOMET Licence for clearance of goods for exports at Customs at the time of obtaining of AA.

The reply is not acceptable because it is the responsibility of RAs to verify export items and ascertain whether they fall under category of SCOMET items before issuing Authorisation, and cannot depend entirely upon the declaration made by firm. Thus, poor due diligence by RA resulted in issue of AA to items which are either prohibited or permitted under a licence contrary to the guidelines for export of SCOMET items.

## 2.8 Other Irregularities

### 2.8.1 Non-observance of financial powers while issuing AAs

The financial powers for issue of AAs have been specified by DGFT in terms of CIF value vide O.M. 1/2015 (February 2015) to be issued by the respective designated Authorities such as FTDO, Deputy DGFT, Jt. DGFT, DGFT and MOCI, including AAs for annual requirement/DFIA/Advance Release Order (ARO)/Invalidation letter under duty exemption Scheme.

Non-observance of financial powers in issuing AAs was observed in the following instances:

(i) RA Bengaluru issued 86 AAs to M/s. X Ltd. during 2015-16 and 2017-18 having total CIF value of ₹84,201.64 crores and FOB value of ₹85469.52 crores for importing Gold Bars and exporting Gold medallions. Scrutiny revealed that during 2016-17, two to three AAs were issued on the same day in respect of 11 cases. The CIF value of each of Authorisation was marginally kept at less than ₹1000 crores (within the delegated financial power for sanction at the level of Additional DGFT) in all these cases so that AAs may not have to be sent to DGFT Delhi for approval and sanction. **(Annexure 2)**

(ii) Non-observance of delegated powers in issuing of AAs was observed in 12 instances out of 835 cases across five RAs (Ahmedabad, Guwahati, Hyderabad, Kolkata and Panipat). DGFT stated (February 2021) that financial power is upto ₹1000 crore and AAs were issued within the delegated financial powers. In other cases, RAs have sought ex-post facto approval of DGFT.

The reply of DGFT is not acceptable because both input and output were identical in all these cases, and AAs have been issued on the same day. The Authorisations were split to avoid forwarding the same to DGFT for further scrutiny and approval, thereby circumventing the O.M. *ibid*.

### 2.8.2 Condition of Bank Guarantee not endorsed on Authorisation

Para 4.12 of HBP 2015-20 stipulates that maximum CIF value of authorisations to be issued under Para 4.07 of HBP (No norms category) shall be 300 per cent of FOB value of the preceding year's export/supplies for status holders and ₹10 crore or 300 per cent, whichever is more, for others. Para 4.13 states that an applicant shall be entitled for Authorisation in excess of entitlement mentioned in Para 4.12 subject to furnishing of 100 per cent BG to Customs authority to cover exemption from Customs duties. A specific endorsement to this effect shall be made on Authorisation so that Customs Department insists on BG before registration of AA.

RA Mumbai issued two AAs with CIF value of ₹268.37 crore to M/s. Y Ltd. under no norms category during 2018-19. As the FOB value of exports for the preceding year was ₹16.54 crore, the CIF value without BG condition should

have been allowed only for ₹49.62 crore (300 per cent of FOB value of ₹16.54 crore) which resulted in allowing excess imports of ₹218.75 crore without any BG condition. During 2019-20, the AH was further issued eight AAs with CIF value of ₹1189.36 crore without any BG condition endorsed in the AAs.

Similarly, RA Pune issued AA (November 2016) to M/s. Z Ltd, Pune for CIF value of ₹18.20 crore without endorsement of 100 per cent BG condition on excess CIF value, although the firm itself had given working of balance entitlement of ₹3.47 crores.

RA Mumbai stated that the 2<sup>nd</sup> licence was issued on repeat basis as per Para 4.12 (ii), and once ad-hoc norms were fixed by the NC, limits would not be applicable for licences issued under no norms. RA Pune stated that AA was issued correctly within the entitlement.

The reply of RA Mumbai is not acceptable as both the licences were issued on the same date (19.02.2019) and norms in the licence were finalized in July 2019, and the 2<sup>nd</sup> licence was issued under no norms case only. Hence, BG should have been insisted for the 2<sup>nd</sup> licence. Response of RA Pune is not tenable in view of firm's declaration of excess CIF amounting to ₹3.47 crores.

### **2.8.3 Irregular removal of 100 per cent BG condition**

Para 2.58 of the FTP mandates DGFT to grant exemption, relaxation or relief to any person from provisions of the FTP or any procedures after consulting with the relevant committee specified therein. In case of giving relaxation to any conditions of authorisations, DGFT has to consult Policy Relaxation Committees (PRC<sup>10</sup>).

RA, Pune issued (November 2017) AA to M/s. AA Ltd with 100 per cent BG condition, as the firm had already crossed the maximum entitlement. It was however, noticed that the BG condition was removed based on an e-mail dated 27.11.2017 received from the Addl. DGFT, New Delhi. Since the power to relax the policy condition vested with DGFT after consulting with PRC, removal of 100 per cent BG condition based on an e-mail from Addl. DGFT was not justified. Moreover, the copy of the email was not available on record. Further, the AH had defaulted in submitting the proof of export fulfillment.

DGFT stated (February 2021) that the demand-cum-SCN has been issued for submission of documents evidencing EO fulfillment. The reply, however, was silent about the waiver of the BG condition.

### **2.8.4 Incorrect issue of Authorisation on net to net basis**

As per General Note on Engineering Products, Para 4 (a) of SION, where norms have not been standardized/published and the applicant seeks to import only

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<sup>10</sup>Policy Relaxation Committee (PRC) is also referred to as Exemption from Policy/Procedures (EPP). DGFT may in public interest pass such orders or grant such exemption, relaxation or relief, as he may deem fit and proper, on grounds of genuine hardship and adverse impact on trade to any person or class or category of persons from any provision of FTP or any Procedures.

components, the same may be allowed to import on net to net basis without any wastage, by the licensing authority. In such cases, the import of components allowed shall be permitted with accountability clause and the type, technical specifications etc. of the components sought for import should conform to those utilized in the manufacturing of the resultant product, which should be reflected in the export documents and a condition to this effect shall be endorsed on the licence.

RA Mumbai issued (May 2017) AA to M/s. AB Ltd. for export of Integrated wiring harness. It was noticed that Appendix 4E (technical data representing inputs required for each unit of export product) submitted by the firm did not indicate specific quantity of the components required for each export product, and only stated 'Net to Net' in the relevant column. The consumption data of the last 3 years certified by Chartered Accountant failed to exhibit any specific pattern of consumption for any of the component, which varied from 0.06 to 22.74 per export item. The application was not in conformity with the Net to Net provision of General Notes for Engineering products; still, licence was issued based on this irregular information and incorrect certified data.

Similar observation was made in RA Coimbatore which issued (July 2015) an AA to M/s. AC Ltd. Quilon/Pollachi for import of Cashew Kernels Broken with CIF value ₹660.27 lakh involving a duty of more than 30 per cent for export of dry/roasted cashews on Net to Net basis. NC rejected (December 2013) the case citing the reason that import item being a Chapter 8 item with Customs duty of more than 30 per cent was not eligible for grant of AA. Subsequently, NC allowed (June 2014) licence on net to net basis with accountability clause.

The concept of "net to net" is not mentioned in the general notes of Import Policy for food products, indicating that Cashew Kernel being in the category of food products is not eligible under net to net category; however, the licence was issued. The duty foregone worked out to ₹297.12 lakh based on actual utilization of Authorisation.

DGFT stated (February 2021) that the firm (M/s. AB Ltd.) has been placed in DEL and RA Coimbatore has issued SCN to the other firm (M/s. AC Ltd.)

#### **2.8.5 Short collection of application fees**

Appendix-2K of HBP prescribes application fee on AAs at the rate of rupee one per thousand of CIF value of import subject to a minimum of five hundred rupees and maximum of one lakh rupees. As per Paragraph 4.40 of HBP, the application fee payable for enhancement would be the difference in CIF value of original and final Authorisation.

Review of 1,409 selected sample cases in five RAs (Ahmedabad, Kolkata, Mumbai, Hyderabad, and Visakhapatnam) revealed short collection of application fees amounting to ₹9.68 lakh in 34 cases (2.4 per cent).

DGFT stated (February 2021) that RA Visakhapatnam recovered ₹1.29 lakh in four cases and other RAs have asked the firms to pay the application fee.

### Conclusion

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 FTP.

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. Till then, all the prescribed documents were being submitted physically which defeated the purpose of facilitating an online system besides resulting in inordinate delays in issuing of AAs despite having prescribed timelines.

Audit reviewed the pendency position of Advance Authorisation applications with the Norms Committees. As on 31st March 2019, the pendency was 5606 which increased to 6044 by 31st March 2020 (7.8 per cent).

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 fulfilment of export obligation. With non-finalization of norms in time, EODC cannot be issued to exporters within the prescribed period, which results not only in blocking of bonds and BGs but also results in increase of non-fulfillment of EO cases. Further, this also delays the initiation of proceedings against the firms by RAs and Customs Authorities for making recovery of Customs duty and interest thereon for default cases, besides penalizing genuine AHs, who are not getting EODCs even after complying with all the stipulated conditions.

There is no time limit prescribed in FTP/HBP for representation against the decision of the NCs resulting in delay in initiation of proceedings against the AHs by RAs and Customs Authorities for making recovery of custom duty and interest thereon.

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.

There is no verification of credentials by RAs before issuing multiple AAs, especially to SSI Units with no past export performance and seeking to make substantial imports beyond its installed capacity. Further, issuing of new licences to a firm in the absence of non-fulfillment of EO of previous AAs in a timely manner defeats the very purpose of the Scheme.

### Recommendations

- 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.**
- 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.**
- 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.**
- 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.**
- 5. DGFT may consider prescribing a time limit within which appeals for reviewing NC decisions can be made.**
- 6. 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.**

**7. DGFT needs to put in place a mechanism for verifying credentials of exporters before issuing multiple AAs to firms (especially SSI Units with no past export performance) seeking to import/export goods for the first time. Further, DGFT should verify completion of EODCs in respect of earlier AAs, if any, before issuing fresh AAs.**

**8. DGFT may reiterate its instructions to RAs on monitoring of non-furnishing of redemption documents of pending AAs by the AH, before issuing fresh AAs.**