Instruction No. 17/2026 - Cus

F. No. CBIC-140605/13/2024-DBK

Government of India

Ministry of Finance: Department of Revenue

Central Board of Indirect Taxes and Customs

Drawback Division

New Delhi, dated the 21st September 2026

To,

All Principal Chief Commissioners / Chief Commissioners of Customs / Customs (Preventive) / Customs & Central Taxes
All Principal Commissioners / Commissioners of Customs / Customs (Preventive)
All Principal Director Generals / Director Generals under CBIC,

Ma'am/Sir,

Subject: Clarification in respect of difficulties being faced by field formations in adjudication of cases where Show Cause Notices have been issued under Section 28AAA of the Customs Act, 1962 in light of TRU instruction vide D.O. letter dated 01.06.2012 at para II.2 – Reg.

Attention is invited to Section 28AAA of the Customs Act, 1962, which provides for recovery of duty from the person to whom the instrument/scrip was originally issued, where such instrument had been obtained fraudulently by way of collusion, wilful misstatement or suppression of facts, and para II.2 of TRU D.O. letter dated 01.06.2012, which inter alia states that *"...Field formations are advised to issue demands as soon as DGFT/concerned regional Authority initiates action for cancellation of an instrument but the matter may be decided only after the instrument has been cancelled by the DGFT."*

2. References have been received from field formations regarding difficulties being faced in the adjudication of Show Cause Notices issued under Section 28AAA of the Customs Act, 1962, for want of cancellation of the instrument/scrip by DGFT, as advised vide TRU D.O. letter dated 01.06.2012.

3. The matter has been examined in the Board, and it is seen that -

(a) There are instances where field formations/DRI allege that instruments/scrips have been obtained fraudulently on the grounds of misdeclaration in the Shipping Bill, including misclassification, overvaluation, or other incorrect declarations. In such cases, DGFT has taken a view that where Customs/DRI suspects or alleges misclassification, the appropriate course is for Customs to undertake an investigation and complete adjudication under the relevant provisions of the Customs Act, 1962, and where warranted, conclusively amend the shipping bill/classification. It is only after such final determination and amendment by Customs that RAs of DGFT can examine consequential action, including cancellation of scrips, in accordance with the Foreign Trade (Development and Regulation) Act, 1992, the Foreign Trade Policy, and associated Rules. DGFT has stated that scrips should not be cancelled solely on the basis of allegations, suspicions or requests from DRI/Customs without a final determination and an amendment to the shipping bill by the customs. The Board agrees with the aforesaid position of DGFT. Accordingly, field formations are instructed that, in such cases, they shall first investigate and adjudicate the alleged misdeclaration under the applicable provisions of the Customs Act, 1962, and wherever warranted, make the consequential amendment to the Shipping Bill. Thereafter, the matter shall be referred to the concerned authority in DGFT for taking further necessary action, including cancellation of the instrument/scrip, at their end.

(b) There are also instances where field formations/DRI allege that instruments/scrips have been obtained fraudulently on grounds relating to policy interpretation, eligibility, entitlement, or other matters falling within the domain of DGFT. In such cases, the matter should first be referred to DGFT, being the competent authority for the issuance, administration and interpretation of the relevant instrument/scrip. In such cases, the view of DGFT shall prevail with regard to the validity of, and entitlement under, the instrument/scrip issued by it, and the proceedings by Customs/DRI should be decided in accordance with the determination/view conveyed by DGFT in respect of such policy-related issues.

(c) Further, there are instances where DGFT is unable to cancel the instrument/scrip on technical or legal grounds, including where such cancellation is precluded by an order or judgment of an Hon'ble Court, as in the case of M/s Supreme Castings Ltd. v. Joint DGFT, Ludhiana, wherein the Court observed that "*there being no provision in Section 9(4) to cancel the license with retrospective effect, on the ratio of the aforesaid case, it has to be held that the DEPB could not have been cancelled ab initio from the date of issue*". In such cases, there appears to be no reason for keeping such SCNs issued under Section 28AAA of the Customs Act, 1962 pending for adjudication for want of cancellation of the instrument/scrip. Accordingly, the adjudicating authorities shall proceed with the adjudication of such cases and decide the same on merits, in accordance with law.

4. In all other cases, where it is alleged that the instrument issued by DGFT has been obtained fraudulently and where DGFT has initiated action for cancellation of instrument/scrip, the adjudication should take place only after the instrument has been cancelled by the DGFT.

Difficulties, if any, in the implementation of the above instructions may be brought to the notice of the Board.

Yours faithfully,

Parag Aggarwal
OSD (Drawback)