

CIRCULAR NO 34/2013-Customs

Dated: September 4, 2013

Sub: Import of Gold and Gold Dore Bars- Procedure and Guidelines.

Reference is invited to Board's Circular No. 28/2009 dated 14.10.2009 regarding procedure to be followed by the Nominated Agencies for supplying duty free gold to exporters. RBI has now issued fresh guidelines for import of gold and gold dore bars vide circular RBI/2013-14/187, AP (DIR Series) Circular No. 25 dated 14.8.2013, as revised (copy enclosed). In order to operationalize the same, the following procedure shall be followed for import of gold. This circular shall supersede the customs circular no. 28/2009-Cus dated 14.10.2009 insofar as the import of gold is concerned. The import of silver and platinum shall continue to be governed by the customs circular dated 14.10.2009.

2. Henceforth, gold shall be permitted to be imported only by the agencies notified by DGFT, which as of now are as follows:

- i. Metals and Minerals Trading Corporation limited (MMTC);
- ii. Handicraft and Handloom Export Corporation (HHEC);
- iii. State Trading Corporation (STC);
- iv. Project and Equipment Corporation of India Ltd. (PEC);
- v. STCL Ltd;
- vi. MSTC Ltd;
- vii. Diamond India Limited (DIL);
- viii. Gems & Jewellery Export Promotion Council (G&J EPC);
- ix. A Star Trading House (only for Gems & Jewellery sector) or a Premier Trading House under paragraph 3.10.2 of Foreign Trade Policy; and
- x. Any other agency authorized by Reserve Bank of India (RBI).

3. Import of gold by the banks/agencies/entities specified in para 2 above, henceforth referred to as Nominated Agencies for the purpose of this Circular, shall be subject to the following:

- a. Import of gold in the form of coins and medallions is prohibited.

b. It shall be incumbent on the nominated banks/agencies/entities to ensure that at least one fifth, i.e., 20%, of every lot of import of gold imported to the country is exclusively made available for the purpose of exports and the balance for domestic use. A working example of the operations of the 20/80 scheme is given in the Annexure to the RBI Circular dated 14.8.2013, as revised.

c. Entities/units in the SEZ and EOUs, Premier and Star Trading Houses shall be permitted to import gold exclusively for the purpose of exports only and these entities shall not be permitted to clear imported gold for any purpose other than for exports (irrespective of whether they are nominated agencies or not).

d. Gold made available by a nominated agency to units in the SEZ and EoUs , Premier and Star Trading Houses shall not qualify as supply of gold to the exporters, for the purpose of the 20/80 Scheme;

e. Gold imported against any authorization such as Advance Authorization/Duty Free Import Authorization (DFIA) shall be utilized for export purposes only and no diversion for domestic use shall be permitted.

4. For import of gold, following procedure is prescribed:

i. all imports shall be routed through customs bonded warehouses only;

ii. jurisdictional Commissioner may permit the vaults of the nominated agencies as customs bonded warehouse subject to the procedure prescribed under Section 58 of the Custom Act;

iii. for every consignment of gold imported, at least 20% quantity shall be for supply to the exporters only and remaining can be cleared on payment of duty in accordance with RBI circular dated 14.8.2013, as revised ;

iv. the Nominated Agencies shall furnish a bond to the satisfaction of the said officer undertaking to properly account for the warehoused gold and also to discharge the duty liability at the prescribed effective rate of duty;

v. the Nominated Agencies may be permitted by the jurisdictional Commissioner of Customs to give a general bond for an estimated amount of duty worked out at the effective rate involved in their monthly import or a revolving bond starting with a bond equal to the duty estimated at the effective rate on quantity of gold likely to be imported in a month;

vi. the Nominated Agencies (other than designated banks nominated by RBI and public sector undertakings) shall also furnish a bank guarantee equal to 25% of the estimated amount of duty involved on import of gold in a month or the bonds executed by them. The exemption from bank guarantee to the designated banks nominated by RBI and public sector undertakings shall be permissible subject to the following conditions:

a. the said entity has not defaulted in following the procedure and condition specified by Customs and/or DGFT;

b. in case of default in export of jewellery manufactured out of precious metal supplied by nominated agency within the prescribed period, the said entity has not defaulted in payment of duty within the specified period;

c. the said entity has not been served with a show cause notice or no demand confirmed against it, during the preceding 3 years, for violations involving fraud or collusion or any willful misstatement or suppression of facts under relevant provisions of the Customs Act 1962, the Central Excise Act 1944, the Finance Act 1994 covering Service Tax, the Prevention of Money Laundering Act 2002, the Foreign Trade (Development & Regulation) Act 1992, the Foreign Exchange Management Act 1999 and the Rules made thereunder;

vii. the Commissioner of Customs may allow more than one Nominated Agencies to keep their imported goods in the same bonded warehouse provided the quantities are kept segregated and separate accounts are maintained;

viii. the Nominated Agencies shall be exempt from following the double lock system. Physical presence of the Bond Officer will not be required for bonding or ex-bonding the goods. No cost recovery charges would be payable by the Nominated Agencies;

ix. the Nominated Agencies can be visited by Custom officers for surprise audit or checks. The jurisdictional Commissioner should devise a system of random audit at least once in 3 months during the first year and twice in a year subsequently;

x. the Nominated Agencies, intending to clear gold to an exporter, shall file an ex-bond Bill of entry, clearly stating the name, address and details of owners/promoters/Managing Director/Partners etc of the exporter to whom the gold is being sold, with the jurisdictional customs officer where the gold has been bonded. The Nominated Agencies shall clear gold for domestic use on payment of duty by filing appropriate ex-bond Bill of Entry.

xi. the exporters intending to receive precious metal from the Nominated Agencies will register themselves with their jurisdictional Deputy/ Assistant Commissioners who will issue them a one-time Certificate specifying therein the details of their units such as name and address of the unit and the owners/promoters/Managing Director/Partners etc. of the organization. Exporters already registered with the customs authorities under the provisions of circular 28/2009-Cus dated 14.10.2009 need not take a fresh registration under this circular. This certificate has to be produced to the Nominated Agencies while taking gold. The units shall submit an undertaking to the Deputy/ Assistant Commissioner without bank guarantee to follow the conditions of notification under which they are receiving duty free gold and export the jewellery made therefrom within the period stipulated in the Foreign Trade Policy. The same procedure will be followed by the EOU/SEZ units intending to receive gold from nominated agencies;

xii. the customs officer shall permit clearance of the gold for export production under the relevant exemption notification after submission of the documents stated above and shall make necessary entries in the Register in the form prescribed in Annexure-I. This register shall be maintained by the customs officer separately for each of the nominated agency importing gold under his/her jurisdiction;

xiii. the Nominated Agencies shall also maintain an account of the goods released to the exporters (exporter-wise) on day-to-day basis. This account shall be liable for inspection by any Customs authority as the account of a bonded warehouse;

xiv. proof of export by the exporter shall be furnished in accordance with para 4A.8(a) of HBP V.1, to the nominated agencies as a proof of having exported the jewellery made from the duty free gold released to them within the period prescribed in the Foreign Trade Policy. The Nominated Agency shall furnish a self-certified copy of the same to the customs officer where the gold was bonded;

xv. wherever such proof of export is not produced within the period prescribed in the Foreign Trade Policy, the Nominated Agency shall (without waiting for its recovery from the exporter) deposit the amount of duty calculated at the effective rate leviable on the quantity of precious metal not exported, within 7 days of expiry of the period within which the jewellery manufactured out of the said quantity of gold was supposed to be exported. The Nominated Agencies will settle their claim with the exporter at their own level. The Nominated Agencies shall also report the cases of failure to export the jewellery made out of gold released to the exporter, to the Commissioner of Customs in whose jurisdiction the gold was originally warehoused;

xvi. the customs officer shall ensure that all clearances of gold from the customs bonded warehouse are in accordance with the RBI circular, especially that the quantity of gold imported by the Nominated Agency, in the third consignment onwards from the date of notification of the RBI Circular dated 14.08.2013, as revised, does not exceed five times the quantity of gold contained in the exported products for which proof of export and realization of payments related thereto, has been submitted to the customs officer;

xvii. the reconciliation of exports and calculation of quantities for subsequent imports shall be done nominated agency-wise and port-wise by the jurisdictional customs officer.

5. For the import of gold dore bars, the following procedure is prescribed:

i. import of gold dore bars shall be permitted only against a license issued by the DGFT;

ii. the entity to whom the license has been issued by DGFT, hereinafter referred to as the license-holder, shall be permitted to import gold dore bars subject to the conditions laid down in notification 12/2012-Cus dated 17.3.2012 as amended ;

iii. the customs officer at the port from where gold dore bars are imported shall ensure that the quantity of gold imported by the license-holder, in the third consignment onwards

from the date of notification of the RBI Circular dated 14.08.2013 as revised, does not exceed five times the quantity of gold contained in the exported products for which proof of export in accordance with Para 4A.8 (a) of HBP Volume 1 has been submitted to the customs officer;

iv. the customs officer at the port from where gold dore bars are imported shall maintain a license-holder wise record of the gold imported as per Register prescribed in Annexure-II. He/she shall also maintain a record of proof of export of the goods manufactured out of gold supplied by the license-holder to exporters from the refined gold. The proof of export, duly certified by the central excise officer in whose jurisdiction the refinery is registered, shall be submitted to the customs officer by the license holder.

v. the license holder shall ensure that at least 20% of the gold manufactured out of each consignment of gold dore bars is supplied to the exporters and the remaining is supplied for domestic use in accordance with the RBI circular dated 14.8.2013, as revised;

vi. entities/ units in the SEZ and EOUs, Premier and Star Trading Houses shall be permitted to procure gold from the refinery of the license holder exclusively for the purpose of exports only and these entities shall not be permitted to clear such gold for any purpose other than for exports (irrespective of whether they are nominated agencies or not). Further, gold made available by such refineries to units in the SEZ and EoUs , Premier and Star trading houses shall not qualify as supply of gold to the exporters, for the purpose of the 20/80 Scheme;

vii. the central excise officer, in whose jurisdiction the refinery is registered, shall monitor that at least 20% quantity of refined gold shall be for the supply to the exporters only and remaining can be cleared in accordance with the RBI circular dated 14.8.2013, as revised;

viii. for each consignment of gold dore bars imported, the license holder shall submit a report on utilization of gold dore bars, gold produced after refining, gold issued to exporters and the proof of export for the goods manufactured and exported by these exporters to the central excise officer under whose jurisdiction the refinery of the license holder is registered. A copy of the same, duly authenticated by the central excise officer, shall be submitted to the customs officer under whose jurisdiction the consignment was initially imported.

6. This Circular shall be deemed to be modified as and when, and in the manner RBI issues any circular to amend the policy related to import of gold as contained in their circular dated 14.08.2013 as revised.

7. Wide publicity may be given to these instructions by way of issuance of Public/Trade Notice. Difficulties, if any, in implementation of these instructions, may be brought to the notice of the Directorate General of Export Promotion.

8. Receipt of this circular may be acknowledged.

9. Hindi version will follow.

DGEP/EOU/G&J/16/2009

(Jitendra Kumar)
Additional Director

Annexure-I

Register to be maintained by the customs officer in terms of Para 4 (X)

1. Name of the Nominated Agency :
2. Full Address :
3. Bond No.& Date :
4. Amount of Bond :
5. Type of Bond (Running/Revolving/Consignment-wise):
6. Accepted by:

RECEIPTS

Date	Date of Import	B/ E No. & Date	Date of warehousing	Quantity of Gold warehoused	Value of, and duty involved in the gold warehoused	Signature of the authorized representative of the Nominated Agency	Signature of the Customs officer
1	2	3	4	5	6	7	

Quantity permitted to be imported in terms of RBI Circular

B/E number and Date	Quantity imported	Quantity warehoused	Quantity cleared on payment of duty	Quantity supplied to EOUs/SEZ units, Premier and Star trading houses	Quantity supplied to exporters (other than those in column 5)	Quantity for which proof of export has been received till the	Quantity permitted to be imported
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						next import of gold from quantity supplied in column 6	
1	2	3	4	5	6	7	8

Import of Gold by Nominated Banks /Agencies/Entities (Revised)

A P (DIR Series)

CIRCULAR NO

25/RBI., Dated: August 14, 2013

Import of Gold by Nominated Banks /Agencies/Entities

Attention of Authorised Persons is drawn to the Reserve Bank's A.P. (DIR Series) Circular No. 15 dated July 22, 2013 on the captioned subject. As per these instructions, certain restrictions were imposed on the import of various forms of gold by nominated banks/nominated agencies/ premier or star trading houses/SEZ units/ EoUs which have been permitted to import gold for use in the domestic sector.

2. Government of India and the Reserve Bank of India have been receiving several requests for clarifications on the operational aspects of the scheme of imports put in place in terms of the above circular. There have also been representations to change certain aspects of the scheme. Taking into account all these representations and in consultation with the Government of India, it has been decided to issue the following clarifications/modifications in supersession of all the earlier instructions:

- a. Import of gold in the form of coins and medallions is now prohibited.
- b. It shall be incumbent on all nominated banks/nominated agencies and other entities to ensure that at least one fifth, i.e., 20%, of every lot of import of gold imported to the country is exclusively made available for the purpose of exports and the balance for domestic use. A working example of the operations of the 20/80 scheme envisaged in terms of the present instructions is given in the Annex . This shall be monitored by customs authorities, and will be implemented port-wise only.
- c. Further, nominated banks/ nominated agencies and other entities shall make available gold for domestic use only to the entities engaged in jewellery business/bullion dealers and to banks authorised to administer the Gold Deposit Scheme against full upfront payment. In

other words, supply of gold in any form to the domestic users other than against full payment upfront shall not be permitted.

d. The nominated banks/agencies/refineries and other entities shall ensure that there is no front loading of imports, particularly in the first and second lots of imports. Such imports shall be linked to normal quantities of gold supplied to the exporters by the nominated banks/agencies and shall not exceed the highest quantity supplied during any one year out of last three years. The quantity thus arrived at, however, will not be imported in one or two lots only. As a thumb rule, imports of more than maximum of two months of requirements of the exporters in a lot would be considered unusual. Illustratively, if the gold supplied to exporters by a bank during the last three years is say, 30 tonnes, 40 tonnes and 60 tonnes respectively, imports in terms of this circular shall be based on highest of three i.e. 60 tonnes. Further, import of 50 tonnes (two months export of 10 tonnes for exports and 4 times the amount for domestic use, totalling 50 tonnes) will be considered unusual. In case of nominated banks not having a previous record of having supplied gold to the exporters they would need to seek prior approval from RBI before placing orders for import of gold for the first lot under the 20/80 scheme.

e. The 20/80 principle would also apply for the henceforth import of gold in any form/purity including gold dore, whereby 20 per cent of the gold imported shall be provided to the exporters. This will be administered and monitored at the refinery level for each consignment at the time of such imports. This will also be monitored by the customs authorities. The refinery shall make available for domestic use only to the entities engaged in jewellery business/bullion dealers and to the banks authorised to administer the Gold Deposit Scheme against full upfront payment and sale of gold against any other form of payment shall not be permitted. Further, the import of gold dore is permitted only against a licence issued by DGFT.

(Note: Gold made available by a nominated agency to units in the SEZ and EoUs, Premier and Star trading houses shall not qualify as supply of gold to the exporters, for the purpose of this Scheme)

f. Any authorisation such as Advance Authorisation /Duty Free Import Authorization (DFIA) is to be utilised for import of gold meant for export purposes only and no diversion for domestic use shall be permitted.

3. Notwithstanding any of the foregoing directions, entities/units in the SEZ and EoUs, Premier and Star trading houses (irrespective of whether they are nominated agencies or not) are permitted to import gold exclusively for the purpose of exports only.

4. AD Category I banks are advised to strictly ensure that foreign exchange transactions effected by / for their constituents are compliant with the above instructions. Head Offices of nominated agencies / International Banking Divisions of banks would be responsible for monitoring operations of the revised scheme taking into account transactions put through different centres. In respect of gold released for the purpose of exports, AD Category I banks will also put in place a special mechanism to monitor

realization of export proceeds as per the extant regulations and any contraventions/ unusual developments in this regard should be reported forthwith to the concerned Regional Office of the Reserve Bank of India.

5. Government of India will be issuing separate instructions, if any, to the customs authorities/DGFT to operationalise and monitor the above requirements for import of gold.

6. The above instructions will come into force with immediate effect. Authorised dealers may please bring the contents of this circular to the notice of their constituents and customers concerned.

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

RBI/2013-14/187

(Rudra Narayan Kar)
Chief General Manager-in-Charge

Annex

Working example of the operations of 20/80 scheme for import of gold

1. A nominated bank/agency/ any other entity ABC imports say 100 kg of gold, which shall be routed through custom bonded warehouses only. If considered necessary, the lot can be procured through two invoices – one for exporters (i.e.20%) and the other one for domestic users (80%).

2. Out of the above import of 100 kg, 20 kg gold held in the bonded warehouse can be got released in part or full to be made available to the exporters of gold against undertaking to customs authorities as is the practice now.

3. The balance 80 kg can be supplied in part or full to domestic entities engaged in jewellery business/bullion traders/banks operating the Gold Deposit Scheme against full upfront payment. In other words, no credit sale of gold in any form will be permitted for domestic use. In case, the nominated bank itself is operating the Gold Deposit Scheme, the bank is permitted to use out of 80 kg, a portion for regularising own open position in gold arising out of operations of the Gold Deposit Scheme.

4. Next lot of import of gold by ABC shall be permitted by the customs authorities only after the quantity earmarked for exporter clients (i.e. 20 per cent of the imported lot) is released to the exporters against their undertaking to fulfill the export commitments within the stipulated time.

5. The quantum of gold permitted to be imported in the third lot will be restricted to 5 times the quantum for which proof of export is submitted. For import of gold in the subsequent lots, the cycle may be repeated following the 20/80 principle.

Note: The same procedure is to be followed by the refineries and by any other entity importing gold in any other form/ purity and in the case of import of Gold Dore also.