

PROBLEMS FACED BY INDUSTRIES DUE TO SELF-MADE LAW BY DGFT IN FILING ANNUAL REPORT

AUTHOR : ABHISHEKJ12

<https://taxguru.in/dgft/problems-faced-industries-due-self-made-law-dgft-filing-annual-report.html>

Problems Faced by Industries Due to Self-Made law by DGFT in filing Annual Report

Introduction: Chapter 5 of the Foreign Trade Policy (FTP) introduces challenges for industries in the filing of Annual Reports, specifically related to the Export Promotion Capital Goods (EPCG) scheme. This article addresses the problems faced by businesses due to self-made laws by DGFT and provides recommendations for improvement.

Chapter 5 of the Foreign Trade Policy (FTP) deals with Export Promotion Capital Goods (EPCG) scheme, which allows companies to obtain licenses for the import of capital goods with certain export obligations. Under the provisions of Para 5.14 of the Handbook of Procedures (HBP), authorized EPCG license holders are required to submit an annual report by June 30th. It's worth noting that in the previous policy (2015-2020), this deadline was April 30th. Any delay in filing such report shall be regularised by paying a late fee of Rs. 5000 per year for each authorisation.

The said provisions for filing online report were always there in the previous policy as well in current policy. However, the DGFT has never insisted anyone to file such report and practically no one in the industry was filing the same. Moreover, there was no online software before 2023 to file such report electronically.

The industries are facing various challenges because of the self-owned made law by DGFT and as a result their businesses are getting hampered. The challenges faced by the industries are summarised below:

1. Approval requirement: The policy clearly states that companies must submit an annual report to the DGFT for their pending EPCG licenses. However, there is no mention in the policy that the report will only be accepted once approved by the DGFT. In the new software, once an annual report is submitted, it shows as "under process" and requires approval from the DGFT. While many companies have submitted their annual reports within the permitted timeframe, many of these reports remain under process with no action taken for approval. This has become a significant issue for the industry, as it requires numerous visits, constant reminders, and significant time commitments to obtain approval.

2. CA certification: In some instances, the DGFT has requested that annual reports submitted through the portal be certified by a Chartered Accountant (CA). This practice varies among different officers. Some reports are approved without CA certification, while some officers are demanding for the same by issuing a deficiency memo. Additionally, the FTP/HBP does not mandate any certification from a chartered accountant. This is a self-imposed rule by the DGFT that creates unnecessary burden for the companies.

3. No other application can be submitted: A major issue with filing annual reports is that authorization holders cannot submit any other applications to the DGFT for the same license until the annual report is

approved by the DGFT. This includes applications for closure of EPCG licenses, submission of installation certificates, and others. The software prevents any other applications from being submitted while the annual report is pending with the DGFT.

Recommendations

The DGFT should take the following steps to address these concerns:

- Clarify the approval process: Provide clear guidelines and procedures for the approval of annual report. Allow companies to submit their annual report without approval from the DGFT.
- Eliminate the CA certification requirement: Remove the requirement for CA certification for annual reports. This is an unnecessary burden on the companies and not mandated by the FTP/HBP.
- Enable submission of other applications: Allow companies to submit other applications to the DGFT even if their annual report is pending approval. This will prevent delays and disruptions to business operations. By addressing these issues, the DGFT can streamline the process of filing annual report, reduce unnecessary burdens on industries, and facilitate smoother business operations.

Conclusion: Addressing these challenges and implementing the recommendations will significantly enhance the efficiency of the DGFT's annual report filing process. Streamlining procedures, eliminating unnecessary requirements, and allowing flexibility in submissions will benefit industries and promote smoother business operations.