

Commerce Secretary assures to remove irritants for Exports



Mr M. Rafeeqe Ahmed, President, FIEO addressing the participants. On his right are, Mr Hari Krishnan Nair, Chairman, Cashew Export Promotion Council; Mr Alok Shukla, Commissioner of Customs (Exports), Chennai; Dr Rahul Khullar, Commerce Secretary; Mr Walter D'Souza, Regional Chairman, FIEO (SR); Mr Anil K Bamba, Additional Export Commissioner & Zonal Jt. DGFT; and Mr Sanjeet Singh, Director, Ministry of Commerce.

FIEO (Southern Region) organized an interactive meeting with Dr Rahul Khullar, Commerce Secretary, Government of India, on April 27, 2012 in Chennai. The programme was aimed at getting inputs from trade and industry on various constraints faced by them as well as suggestions for improvement of export from India. The programme also discussed various points and suggestions for the forthcoming revised Foreign Trade Policy proposed to be announced during the end of May 2012. The meeting was attended by more than 130 leading exporters from southern India including Chairmen of Export Promotion Councils,

Commodity Boards, Trade Associations and Chambers. The meeting was sponsored by CitiBank.

Mr Walter D'Souza, Regional Chairman, FIEO (Southern Region) welcomed the participants and said the all-out efforts of exporters coupled with the Government's market diversification strategies for new markets in Africa, LAC, CIS and above all Asia helped to achieve the growth. While referring to the export performance of the Southern Region, he said during the last financial year, the Southern Region exported more than 22% of India's total exports to reach \$67 billion. The major prod-

ucts exported from this region are engineering products, textile, ready-made garments, leather, chemicals, pharmaceuticals, agro products etc. He assured that if exporters get the necessary support by way of adequate infrastructure, this region can show much higher growth than the national rate as well as increase its share in the national kitty. He also mentioned that exporters incur heavy expenses due to lack of infrastructure, congestion, delays in clearance at various points etc. Unless these issues are taken up seriously, our products will face a big challenge due to higher costs, Mr D'Souza added.



Dr Rahul Khullar, Commerce Secretary (centre) flanked by Mr Rafeeqe Ahmed, President, FIEO (extreme left) and Mr Walter D'Souza, Regional Chairman, FIEO(SR).

Mr M. Rafeeqe Ahmed, President, FIEO, in his presidential address complimented the Commerce Secretary for achieving the milestone of \$300 billion exports in 2011-12 despite domestic and global challenges. Mr Ahmed said the slowdown in emerging and developing economies is of greater concern to exporters as they are consciously moving away from advanced economies. However, he felt that India's economic engagement within Asia supplemented through the Indo-ASEAN FTA, CECA with Singapore, Malaysia, Thailand, Japan, emerging opportunities in Iran, and the move towards MFN status by Pakistan would provide greater market access and help us increase our exports. While referring to the trade data he said the growing trade deficit which has crossed over \$185 billion is equally worrying. Curbing the trade deficit would depend on

crude prices, slowdown in gold and silver imports and increased exports. In short, exports are the panacea for our economy. Therefore, all stakeholders should join hands for boosting the country's exports, he urged.

While referring to the FIEO initiative in attracting new entrepreneurs to exports and developing new platforms of export marketing, Mr Ahmed said FIEO has joined hands with eBay and Pay-Pal so that manufacturers located in remote areas can showcase their products online and receive orders without payment risks. However, a couple of policy issues need to be addressed to give encouragement to this segment: (a) The Service Tax charged on such transactions should be exempted as the services for exports only. (b) Such transactions should be extended the benefit of Duty Drawback by accepting customs' attested in-

voice in lieu of shipping bill. (c) The normal procedure of imports of return of exports goods should also be extended to e-commerce traded goods as well since presently full customs duty is being charged on such imports instead of refund of full export benefits which is levied in case of normal import of export goods.

While referring to the need for creating an environment of trust with industry by the Government, Mr Ahmed said the sweeping powers being assumed by Customs and Excise authorities has unnerved the industry. The law is being amended in a manner that for such offences, bail cannot be granted by a Court without hearing the Public Prosecutor. Prosecution could be launched in cases involving interpretational/technical or procedural issues such as classification, valuation etc. The



A view of the participants.

amendments were apparently made in order to overcome the situation arising on account of the decision of the Supreme Court in the case of Om Prakash versus Union of India. The court inter alia held that all offences under the Customs Act are non cognizable and bailable. Mr Ahmed requested the Commerce Secretary to write to CBEC to ensure that orders for launching prosecution are issued only after observing the principles of natural justice. In other words, the person proposed to be prosecuted for conviction under excise law must be put to notice and given an opportunity of being heard. Further, the orders for prosecution should be appealable orders.

While referring to the need for involvement of state Governments in export activity, he said that exporters are having various issues with States. Mr Ahmed requested Mr Khullar to ask each State to constitute a State Export Promotion Board headed by the Chief Secretary or Principal Secretary which should meet at frequent intervals to resolve fiscal and non fiscal issues of the exporters. Such regular interaction will also help in better identification of projects under the Assistance to States for Infrastructure Develop-

ment for Exports (ASIDE) Scheme and close monitoring of funds as well, Mr Ahmed added.

While highlighting the increase in the cost of credit in the last two years with the hike in the base rate, the FIEO President said Interest Subvention for exports is an absolute necessity, particularly for MSME exporters. He requested the Commerce Secretary to take this matter up with the Finance Ministry so as to restore the facility from April 1, 2012. Moreover, despite the increase in PCFC rates from LIBOR+200 basis points to LIBOR +350 basis points, adequate flow of PCFC is still eluding small exporters. The matter may be taken up with the RBI for ensuring adequate availability of PCFC for exports.

Major points discussed and the Commerce Secretary's replies are given below:

- There is a need for increase in the benefit of duty scrip from 2% to 5% under Focus Product Scheme at par with the handicraft sector for the handloom sector. Handicraft items have been included in Table 2 and Table 5 of Appendix 37 D under Special Focus Product list so that the handicraft items are eligible for the

duty benefit of 5%, whereas handloom products still remain in Table 1 of Appendix 37-D, which are eligible for only 2%. As such with the additional bonus benefit of 2% announced in the Foreign Trade Policy on 23rd August, 2010, handloom products are eligible for 2% plus 2%, whereas handicrafts are eligible for 5% plus 2%.

- With the phasing out of quota and the opening up of markets, handlooms are still facing competition from the mechanized sectors and the handloom weavers are becoming manual labourers due to the shrinkage of market for handloom products. Further, with the attractive perks provided by the mechanized sectors, the second generation of handloom industry is not willing to stick on to the traditional handloom industry, thus paving a way for degeneration. Under the circumstances, the sagging handloom industry awaits much needed intervention by the government with a slew of measures, which can restore the confidence of the industry to meet the growing challenges prevailing in the overseas markets.

Focus Market Scheme is depend on the budget received from the Finance Ministry and this allocation is very limited. However, the Handloom EPC has been advised to give proposal with specific tariff line instead of generic representation along with the export data and export destination so that the Ministry can work out the quantum of requirement and take decision accordingly.

- As per MDA guidelines an exporter can participate only 3 times in a particular fair with MDA assistance. This may be increased to 5 times as repeat participation is very much necessary to get required results. At present MDA assistance to individual exporters are limited to Rs 1.8 lakh for participation under Focus LAC and

Rs 1.5 lakh for other countries. Since space rent and travel cost increased many times over the years, it is suggested that the ceiling may be increased to Rs 2.5 lakh for Focus LAC and Rs 2 lakh for other countries.

MAI is planned activity and MDA is unplanned activity. There is huge constrain on availability of fund for non-planned activities. However, the Commerce Secretary said he would look into the proposal for increasing in the upper sealing of assistance. He also said that the Government is not having any problem in giving adequate fund under MAI proposals.

- The leather industry has done extremely well during the last financial year and growth rate up to December was 31% and is expected to reach \$4.7 billion in FY 2011-12, with more than the target fixed. EPCs and FIEO undertake a wide range of services and activities which include organizing export promotion events like participation in fairs, and organizing visit of delegations, buyer seller meets, India Shows, organizing training programmes/workshops etc. Further, EPCs have been designated as the implementing agencies for infrastructure related projects which are funded under the ASIDE Scheme. All these activities, which are carried out for the common benefit of the industry and with the objective of promoting "Country Brand Image", are predominantly funded by the Government and only a meagre portion is funded by the industry to bridge the gap between expenditure and grant. Thus, all the activities of EPCs and FIEO are "non-profit" in nature and are aimed at helping export growth and generating employment. While the grant-in aid from the Government is totally exempted from the levy of service tax, the meagre amount funded by the industry has been subjected to service tax, that too with retrospective effect from June 16, 2005. Further, the Service Tax Department is

wrongly classifying EPCs and FIEO as "Club or Association" under Section 65 (105) (zzze) of the Finance Act 1994, thereby treating them on a par with private bodies which offer their services with a profit motive, which is not so in the case of EPCs and FIEO. Thus, in the case of the Council for Leather Exports alone, a service tax amount of Rs 8.19 crore has been sought as service tax due inclusive of penalty with applicable interest thereon.

- Similar huge financial burdens have been imposed on other EPCs and FIEO as well. Hence, it is requested that the following exemptions may be considered to the EPCs and FIEO.

1. One time exemption in respect of discharge service tax for entire past liability from 16-6-2005 till date of proposed exemption notification on the entire receipts of EPCs and FIEO, on the lines of such exemption given for EPCs and FIEO for the period 7.7.2009 to 31.3.2010 notified vide Service Tax Notification No.16/2009-ST dated 7-7-2009. During the period EPCs have not collected any service tax from members and this demand will put EPCs in serious financial difficulties.

2. The Department of Revenue has notified the so called "Negative List" of services which are totally exempted from Service Tax (from the date on which Section 66 B of the Finance Act 1994 comes into effect) vide Service Tax Notification No. 12/2012 dated March 17, 2012. It is requested that the entire gamut of services provided by EPCs and FIEO may be considered for inclusion under the "Negative List" by suitably amending the Service Tax Notification No. 12/2012 dated March 17, 2012.

- MDA, MIA and ASIDE grants which come to the councils are also being taxed. Not only the contribution of the members, the grants

given by the Ministry also being taxed. EPCs are functioning as the agencies to disburse this fund and hence there should not be any tax liability.

According to the Commerce Secretary, it is very difficult to convince the Department of Revenue. He requested the Council for Leather Export to make two separate representations: 1. For the period which no service tax has been collected by the EPC and notices have been issued by the Department. 2. Detail representation on taxability of grants received from the Department.

- The Interest Subvention Scheme has been highly beneficial to the leather industry, as it has decreased the interest burden on packing credit to considerable extent. As far as the leather industry is concerned, this scheme was implemented only for small and medium enterprises during 2010-11 and 2011-12. The request is for implementing this scheme during 2012-13 also for the entire leather industry. As about 80% of the leather industry is concentrated in the MSME segment and is availing the scheme, extending the scheme to the entire leather industry will involve only minimum revenue implication. The export of leather and leather products during 2010-11 was Rs 17,518 crore. As the rupee export credit is provided to the extent of 1/5th of the turnover of the company, it is estimated that the value of exports on which the credit is available is Rs 3500 crore per annum. Thus, if 2% interest subvention is applicable on the export value of Rs 3500 crore, the revenue implication is only about Rs 70 crore. It is requested that the Department of Commerce recommend to the Ministry of Finance for implementing the 2% Interest Subvention Scheme for the entire leather sector during 2012-13.

- The request is to extend



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Focus Product Scheme to all categories of footwear falling under 6402 as the DGFT Public Notice has currently included 6402- Other footwear with outer soles and uppers of rubber or plastics – Sports footwear only. The wording “Sports Footwear” to be removed to facilitate all categories of footwear falling under 6402 to avail the scheme.

- The schemes under Chapter 3 of Foreign Trade Policy namely Focus Product Scheme (FPS), Focus Market Scheme (FMS), Special Focus Market Scheme, Status Holders Incentive Scrip Scheme etc. are not currently available to units in SEZs. However, these schemes are available to EOUs who do not avail direct tax benefits. However, since the Chapter 3 schemes are promotional measures, it is requested that these schemes may be extended to units in SEZ also, perhaps with the condition that they do not avail direct tax benefits as in the case of EOUs.

The Commerce Secretary assured that he would take up the points with the Department of Revenue.

Other points would be considered while finalizing the Foreign

Trade Policy.

While referring to the FIEO President’s request for Interest Subvention Scheme, the Commerce Secretary said that during the first year of operation, more than Rs 1500 crore has been spent towards the scheme. Last year the scheme has been narrowed and Rs 900 crore has been spent. When the available budget is limited, the Department is having no other option. Otherwise there is a need to curtail other schemes like Chapter 3 or EPCG. However, the Commerce Secretary said that he would keep this issue open.

While discussing FIEO points related to non-availability of packing credit in foreign currency, the Commerce Secretary said he has already discussed this matter with the Chairman, SBI, and will be holding a meeting with Reserve Bank of India on this issue and hope that some solution will be worked out. Extending PCFC beyond 180 days is also under consideration, the Commerce Secretary added.

- There is an urgent need for

modernizing the cashew industry by mechanizing and automating the cashew processing industry for which huge investment is required. The total cost for a small mechanized plant is around Rs 20 crore. In the 11th financial year, the planned scheme assistance was limited to 25% on investment. It is requested that in the 12th Plan Scheme this may be increased to 33.33% of the investment.

- To encourage cashew exporters to go for value addition, more support is required in the 12th Plan period. It is requested that more benefit be given than food subsidy wherein there is no export commitment whereas cashew industry undertakes export commitment.

As the 12th Plan has started, extending the plan from the previous plan period is easy. However, in case any changes are required, there is stringent processing requirement by the Expenditure Committee which take a long time. However, the Commerce Secretary said he would look into this issue.

- There is a need to devise the cashew industry’s specific MDA guidelines as the industry has markets in developed countries. There are also very specific trade fairs; the industry needs to continuously attend various product fairs held in the same country to enter these markets. Focus Market Schemes like Focus Africa do not have any benefit because African countries are also major producers of cashew and their major markets are the developed countries.

- Currently, Cardanol is included in minor forest produces for allowing VKGUY as this is a byproduct of cashew. It is requested that Cardanol should come under Cashew EPC for issuing RCMC and getting VKGUY benefit.

This issue will be looked into in

the FTP.

- The Advance Authorisation is governed by Customs notification no; 96/2009 dt. September 11, 2009 and the same excludes manufacturing operation by the units availing the facility under Rule 19 (sub rule 2) under Central Excise Rules 2002. The exporter is availing the facility under Rule 19 sub Rule 2 of Central Excise Rules 2002 for production and hence not in a position to operate under Advance Authorisation scheme. There is a necessity to revisit the notification and remove the exclusion of condition of Rule 19 sub Rule 2 & Rule 18 of Central Excise Rule 2002 from this notification. Alternatively, it is suggested that a new scheme permitting imports (meant for exports) at the time of Customs clearance on nil duty by way of the execution of a suitable bond prescribed for this purpose – manufacturing and exports under direct central excise supervision within a stipulated period say 12 months – cancellation of bond upon export completion with the penalty clauses of imposing duty + interest on unutilised/ diversion of imported items for any other purposes. This will eliminate the process of applying brand rates with the excise authorities and all associated documentations. The process of brand rate claims takes a very long time with elaborate documentation, verification etc. At times, it takes more than a year and our funds are blocked.

The Commerce Secretary informed that he would take up this issue with the Department of Revenue.

- For regularizing the EO default of Advance authorization DEPB scrips can be surrendered as per Para 4.3.1 of FTP which clearly states that DEPB Scrip can also be used/debited towards payment of Customs Duty in case of EO defaults for authorizations issued under Chapters 4 and 5 of the Policy. How-

ever, the Customs Department does not permit this in the absence of corresponding customs notification to this effect. This issue should be sorted out immediately.

The Exporter has been asked to put up specific case for consideration of the Department.

- SHIS licence should be made freely transferable as it is given to the only benefit now available to the status holder which is issued only after exports are completed and proceeds realized. If for any reason it cannot be made freely transferable; then raw materials must also be permitted to import under AU condition.

It is not possible to consider this request. However, the Commerce Ministry is taking up the issue with the Department of Revenue for expanding the coverage of products so that it will be useful. The proposal for making it transferable amongst status holders is also under consideration.

- Licence verification at customs must be made electronically and manual verification must be eliminated.

The issue will be taken up.

- The DGFT website for FPS Licence is not updated with regards to exports made to the US. We are not able to feed data on the website.

This will be updated after the announcement of the FTP. However, any specific old cases may be represented through FIEO for consideration.

- Almost all engineering items like, engines, engine components, hydraulic pumps, gears, tractors, all tractor parts, all motor vehicle and their parts are in the negative list for imports from India whereas India allows all engineering items from Pak-

istan. In a nutshell, MFN status is not extended to India in a true sense. The Commerce Ministry is requested to take up this issue with the Government of that country for the removal of these items from their negative list so that trade between the two countries starts flourishing.

The list of negative products will go slowly and is expected to happen by this year end as most of the goods in the negative list are reaching the Pakistani port through third countries. A year ago, Pakistan had a positive list of under 3000 items and a negative list of over 8000 products. Now there are only around 1200 products under the negative list.

- DEPB allowed on cotton yarn export vide PN 67/04.08.2011 - retrospective effect from 01.04.2011 to 30.09.11 The PN was received by the exporters on 06.08.11. In the meantime some of the SB were filed as "FREE SB" on 05.08'11 as exporters were not aware of PN 67/04.08.2011. Exporters have been advised by DGFT that the procedure to be adopted for claiming DEPB for 01.04.11 to 04.08.11 and followed the same procedure for claiming DEPB on above SB dated 05.08.11 which was rejected by ZDGFT Chennai, saying the SB date is after 04.08.11 and cannot be considered. Subsequently, letters have been sent to DGFT - Delhi as well as the Policy Relaxation Committee. The exporters' legitimate claims should be settled immediately.

The Commerce Secretary fully agreed with the point raised and asked the exporter to submit the case to the Department for consideration of the Policy Committee.

- Extension of RC Period on cotton yarn export is kept on hold. This will effect all exporters to a great extent. The exporter is not able to get the production from mills

as per their commitment mainly due to severe power problem that is prevailing in the southern states. Considering the reinstatement of period extension which will go a long way in helping all exporters in fulfilling their export commitments

The Commerce Secretary instructed the Zonal DGFT, Chennai, to look into this issue.

- Issue of Conversion of Shipping bill From DEPB to Drawback Scheme due to sudden withdrawal of the benefit is pending. The SB was filed on 20.04.2010 under DEPB scheme and the let export date was on 22.04.10. DEPB on cotton yarn was stopped effective from 21.04'10. The exporter approached Chennai Customs for change of SB from DEPB to Drawback scheme (Foreign Trade Policy para 2.56 permits such a change). Since then many letters were written to various officials in Customs and FIEO, and two personal hearings were attended. This issue was raised in the open house meet organized by FIEO last time in which the Commerce Secretary had participated. It remains unresolved till now.

The Commissioner of Customs said he would take a decision on this file very quickly.

- For the exporters, to utilize the licences received from JDGFT the Shipping Bill related to the licence is to be uploaded by customs in ICEGATE. At present exporters find that even after one month of receiving the licence from JDGFT the uploading procedures are not carried out by customs which puts exporters like us into lot of inconvenience.

The exporter has been requested to give full details of his individual issue.

- Fishing nets, knotted nets etc. should be included in the Focus Product Scheme.

- This is a radical departure from the defined list of services that are subject to service tax under the current dispensation. An area of great concern to exporters are the provisions regarding transportation of goods in the course of foreign trade, and are confident that the necessary clarifications are issued before this law is enacted so that there is no taxation on the inbound and outbound logistics that will have a very detrimental effect on exports. Currently, freight incurred on carriage of goods by sea is not within the ambit of service tax; airfreight is exempt by a specific notification. This position needs to be continued under the new provisions where it is understood that many of the current exemption notifications will be rescinded when the negative list based tax is introduced. The draft circular regarding transport of goods states that on inbound cargo freight paid up to landing at first customs airport is exempted. This clarification will adversely affect the imports made by air freight. In a bill of landing, two specific places are identified – the port of landing and place of delivery, and in calculating the assessable value of goods under Section 14 of CA freight included up to port of discharge is adopted. However, in import of goods by air such distinction is not made in an airway bill where only the airport of departure and airport of destination are identified and the entire freight charges are adopted in calculating the assessable value. Exporters often use the consolidation services offered by freight forwarders for reducing the airfreight costs and a consolidated shipment arriving in India is often transshipped to the final destination. The entire airfreight cost is adopted in deriving the assessable value and this clarification will result in a dual taxation which needs urgent clarification.

- Exporters often engage Indian freight forwards to transportation of goods purchased on an ex

works/FOB basis to benefit from lower landed cost and this activity needs to be exempt from service tax where the logistics service provider arranges for pick up. This entire activity is a seamless supply chain operation under a single price and these services are essentially performed outside the Indian taxable territory and a specific clarification that such activity would not fall under the ambit of service tax in the new scheme.

The Commerce Secretary said he would take up this issue with the Finance Ministry for necessary clarification.

- Bangalore Rose Onion was having separate HS Code and was allowed to export during ban on onion. However now the code number has been clubbed with other onions.

The Commerce Secretary promised he would solve this issue.

- Previously EPCs used to get export and import data from customs regularly. However, after implementation of new EDI system, these facilities are not available and EPC are find it very difficult to get required data.

The Commissioner Customs assured he would flag this issue as currently it is a centralized system and needs to be taken up with HQ to evolve necessary improvement in the system for this purpose. The Commerce Secretary said this is a valid issue and assured that he would take it up with DGCIS for sharing quarterly data based on the tariff line to EPCs.

- The payment settlement system with Iran is working fine and has started generating good business. Assurance from the Government is requested for continuance of this arrangement without hindrance.

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The Commerce Secretary assured that the Government would make all efforts to see this arrangement will continue and generate good business.

- Exporters are not getting Packing Credit in foreign currency.

The Commerce Secretary has already taken up this issue and assured that he would flag this issue again.

It was also pointed out that offi-

cial from the Commerce Ministry headed by Mr Arvind Mehta, Jt. Secretary, will be visiting various cities across the country, including Chennai and Coimbatore, and brief exporters on new business opportunities available in Pakistan after pruning the list of negative items.

Mr Harikrishnan Nair, Chairman, Cashew Export Promotion Council of India and Managing Committee Member, FIEO, proposed the vote of thanks. ■

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