Filling a lacuna in export dues write off

Every now and then, the commerce ministry notifies a minimum export price (MEP) for certain commodities, to discourage their exports and improve availability in the domestic markets.

These are mostly farm products but some steel goods, too, had suffered MEP for a while. MEP is set at a level where few abroad will buy at that price.

Some clever exporters, however, find a way to get around stipulation. The method is to invoice at MEP, realise export proceeds at a lower price and then seek write off the shortfall.

For example, the MEP for onions is $ 700/ tonne now. Let us say an exporter finds it difficult to sell at the MEP but gets a buyer willing to pay $650/ tonne. It makes commercial sense to him to take up this order. What the exporter does is to accept this order with a specific understanding that he will raise an invoice for $700/ tonne but accepts payment of only $ 650/ tonne.

The next step is to ship the goods with all paperwork, including the shipping bill showing a price of $700/ tonne. The shipment will go through customs and, as usual, the exchange control copy of the shipping bill and other documents will be given to the banks for monitoring realisation of payment. The buyer will remit at the price of $650/ tonne only. The exporter will then seek write- off for the balance unrealised amount. The goods thus, get exported at a price lower than the MEP.

This method works because Reserve Bank of India (RBI) has left a lacuna in its instructions regarding write- off of the export proceeds.

RBI says when an exporter seeks reduction in invoice value after a bill has been negotiated or sent for collection, banks might approve such reduction if satisfied with the genuineness of request, provided it does not relate to export of commodities subject to floor price stipulations.

However, this condition is missing when the exporter seeks a write- off of the export proceeds. The exporter would avoid asking for reduction in invoice value but simply ask for a write- off.

RBI allows a self- write off up to five per cent of the total export proceeds realised during the previous calendar year. This limit is 10 per cent for status holders.

These limits are available cumulatively. In case of self- write- off, the exporter should give to the concerned bank a chartered accountant's certificate indicating export realisation in the preceding calendar year, the amount of write- off, if any, already availed of during the year, details of relevant bills to be written off, commodity exported, country of export, etc. Write- off in cases of payment of claims — by Export Credit Guarantee Corporation of India and private companies regulated by the Insurance Regulatory and Development Authority and cases where an exporter produces a certificate from the Foreign Mission of India concerned about the fact of non-recovery of export proceeds from the buyer — are also allowed by RBI. These provisions stipulate many conditions but the caveat that the amount realised is not less than the stipulated

MEP is not one of these. Exporters can get a write- off by merely producing the necessary certificates.

The commerce ministry should take up the matter with RBI and get the loophole plugged.

(Business Standard)