September 21, 2026

CBIC

CBIC sets who acts first in Section 28AAA scrip fraud cases

CBIC Instruction No. 17/2026-Cus sets when customs adjudicates first and when DGFT decides first on Section 28AAA demands over scrips said to be obtained by fraud.

THE DRAWBACK DIVISION of the Central Board of Indirect Taxes and Customs (CBIC), Department of Revenue, Ministry of Finance, issued Instruction No. 17/2026-Cus, F. No. CBIC-140605/13/2024-DBK, dated September 21, 2026. It is addressed to all Principal Chief Commissioners and Chief Commissioners of Customs, Customs (Preventive) and Customs & Central Taxes, all Principal Commissioners and Commissioners of Customs and Customs (Preventive), and all Principal Director Generals and Director Generals under CBIC. It deals with show cause notices under Section 28AAA of the Customs Act, 1962. The instruction describes that section as providing for recovery of duty from the person to whom an instrument or scrip was originally issued, where it was obtained fraudulently "by way of collusion, wilful misstatement or suppression of facts". It is signed by Parag Aggarwal, OSD (Drawback).

KEY FACTS

AUTHORITY

CBIC

PUBLISHED

September 21, 2026

ISSUED BY

Central Board of Indirect Taxes and Customs (Drawback Division), Department of Revenue, Ministry of Finance

DOCUMENT

Instruction No. 17/2026-Cus

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Para II.2 of the TRU D.O. letter dated June 1, 2012 advised field formations to issue demands as soon as the Directorate General of Foreign Trade (DGFT) or the concerned regional authority starts action to cancel an instrument, but to decide the matter only after DGFT has cancelled it. Field formations then reported difficulties in adjudicating Section 28AAA notices because DGFT had not cancelled the instrument or scrip. The Board examined the matter and set out three situations, with a fourth rule for every other case.

Where customs or the Directorate of Revenue Intelligence (DRI) allege a scrip was obtained through misdeclaration in the shipping bill, including misclassification, overvaluation or other incorrect declarations, customs acts first. DGFT's view, which the Board accepts, is that a scrip should not be cancelled solely on allegations, suspicions or requests from DRI or customs, without a final determination and an amendment to the shipping bill. Field formations must investigate and adjudicate the misdeclaration under the Customs Act, 1962, amend the shipping bill where warranted, and then refer the matter to DGFT for further action, including cancellation. Where the grounds concern policy interpretation, eligibility, entitlement or other matters within DGFT's domain, the matter goes to DGFT first. DGFT's view prevails on the validity of, and entitlement under, the scrip, and customs or DRI proceedings are decided in line with it.

Where DGFT can't cancel a scrip on technical or legal grounds, including where a court order or judgment rules cancellation out, adjudicating authorities must proceed with the notices and decide them on merits, in accordance with law. The instruction says there appears to be no reason to keep such notices pending for want of cancellation. It cites M/s Supreme Castings Ltd. v. Joint DGFT, Ludhiana, where the court observed that "there being no provision in Section 9(4) to cancel the license with retrospective effect", the DEPB "could not have been cancelled ab initio from the date of issue". In all other cases where DGFT has started action to cancel an instrument said to be obtained by fraud, adjudication takes place only after DGFT has cancelled it.

The instruction does not name the court in the Supreme Castings case or give its date, and it cites no other judgment. It sets no time limits and gives no date from which it applies. It does not mention transferees of scrips: the only person it refers to is the one to whom the instrument was originally issued, in its description of Section 28AAA. Any difficulties in carrying it out may be brought to the Board's notice.

Issued by	Central Board of Indirect Taxes and Customs (Drawback Division), Department of Revenue, Ministry of Finance
Document	Instruction No. 17/2026-Cus
File number	F. No. CBIC-140605/13/2024-DBK
Dated	September 21, 2026
Applies to	Show cause notices under Section 28AAA of the Customs Act, 1962, where an instrument or scrip issued by DGFT is said to be obtained fraudulently
Takes effect	No date stated
Shipping bill misdeclaration	Customs adjudicates and amends the shipping bill first, then refers the matter to DGFT for further action, including cancellation
Policy, eligibility or entitlement	Referred to DGFT first; DGFT's view prevails
DGFT unable to cancel	Customs decides the notice on merits without waiting for cancellation
All other cases	Adjudication only after DGFT has cancelled the instrument
Background	Para II.2 of the TRU D.O. letter dated June 1, 2012
Signed by	Parag Aggarwal, OSD (Drawback)

Who acts first on a Section 28AAA notice

Situation	Who acts first	What follows
Scrip said to be obtained through misdeclaration in the shipping bill, including misclassification, overvaluation or other incorrect declarations	Customs: investigates and adjudicates under the Customs Act, 1962, and amends the shipping bill where warranted	The matter goes to DGFT for further action, including cancellation of the scrip
Grounds of policy interpretation, eligibility, entitlement or other matters within DGFT's domain	DGFT: the matter is referred to it first	DGFT's view prevails on the scrip's validity and entitlement; customs or DRI proceedings are decided in line with it

DGFT unable to cancel on technical or legal grounds, including where a court order or judgment rules it out	Customs: the adjudicating authority	The notice is decided on merits, in accordance with law, without waiting for cancellation
All other cases where DGFT has started action to cancel	DGFT: decides on cancellation	Adjudication takes place only after DGFT has cancelled the instrument

The instruction (PDF, 273 KB)

Source: CBIC's own copy.

Checked against the official copy on October 28, 2026.

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