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# Introduction

Exports of a country play an important role in the economy. Govt always endeavours to encourage exports by introducing various export promotion schemes. Consequently, there are various promotional measures under FTP and other schemes operated under Ministry of Commerce through various Promotion Councils.

As per WTO, export incentives cannot be given to the exporters as such otherwise there would be no free competition. Hence, all the export promotion schemes in India are directed towards ensuring that the inputs as well as final products are made tax-free.

# Duty Exemption and Remission Schemes

The Duty Exemption and Remission Schemes are the most important schemes in the Foreign Trade Policy, because they are most widely utilized and are largely compatible with the provisions of the Agreement on Subsidies and Countervailing Measures (ASCM) of the WTO.

## Duty Exemption Schemes

- Advance Authorization Scheme
- Duty Free Import Authorisation Scheme (DFIA)

## Duty Remission Schemes

- Duty Drawback (DBK) Scheme
- Duty Remission Schemes under GST Law

# Advance Authorization Scheme

- ❖ Under advance authorization scheme, **INPUTS** which are used in the export product can be imported without payment of customs duty.
- ❖ IGST and GST Compensation Cess have been exempted ~~upto 31-3-2019 31-3-2020 31-3-2021 31-3-2022 30-6-2022~~ **[Time limit of exemption removed by NN 37/2022-Customs, dated 30-6-2022]** on imports under AA for physical exports or following deemed exports –
  - Supply of goods by a registered person against AA
  - Supply of capital goods by a registered person against EPCG Authorisation
  - Supply of goods by a registered person to EOU
- ❖ The goods imported are exempt from basic customs duty, additional customs duty, education cess, anti-dumping duty and safeguard duty, unless otherwise specified. However, specified deemed exports\* are not exempted from payment of applicable anti-dumping duty and safeguard duty. The conditions for duty free imports against physical exports are provided in notification issued under the Customs Law.
- ❖ Period of fulfilment of export obligation under AA is 18 months from the date of issue of Authorization or as notified by DGFT.
- ❖ Export proceeds shall be realised in freely convertible currency except otherwise specified.

\*Deemed exports specified for this purpose are Supply of capital goods against EPCG authorisation and supply of goods to UN or international organisations for their official use or supplied to projects financed by them.

# Advance Authorization Scheme

## **I. Basis of issuance of Advance Authorisation –**

AA is issued for inputs in relation to resultant product, on the following basis:

A. As per Standard Input Output Norms (SION) notified (available in Handbook of procedures)

OR

B. On the basis of self declaration. Regional Authority may also issue Advance Authorisation where there is no SION/valid Ad hoc Norms for an export product or where SION / Ad hoc Norms for an export product or where SION / Ad hoc norms have been notified / published but exporter intends to use additional inputs in the manufacturing process, based on self-declaration by applicant. Wastage so claimed shall be subject to wastage norms as decided by Norms Committee.

OR

C. Applicant specific prior fixation of norm by the Norm Committee.

OR

D. On the basis of Self Ratification Scheme. Where there is no SION/valid Adhoc Norms for an export product and where SION has been notified but exporter intends to use additional inputs in the manufacturing process, eligible exporter can apply for an Advance Authorisation under this scheme on self-declaration and self-ratification basis. RA may issue Advance Authorisations and such cases need not be referred to Norms Committees for ratification of norms. An exporter (manufacturer or merchant exporter) who holds AEO (Authorised Economic Operator) Certificate under Common Accreditation Programme of CBIC is eligible to opt for the scheme.

# Advance Authorization Scheme

## **II. Items which can be imported duty free against AA –**

1. Advance Authorisation is issued to allow duty free import of input, which is physically incorporated in export product (making normal allowance for wastage).
2. In addition, fuel, oil, catalyst which is consumed/utilised in the process of production of export product, may also be allowed.
3. Mandatory spares which are required to be exported/supplied with resultant product permitted upto 10% of CIF value of Authorisation.
4. Specified spices only when used for activities like crushing/grinding/sterilization/manufacture of oils or oleoresins and not for simply cleaning, grading, re-packing etc.

However, items reserved for imports by STEs cannot be imported against AA

## **III. Who are eligible for Advance Authorisation –**

AA can be issued either to a manufacturer exporter or merchant exporter tied to supporting manufacturer(s) –

Such authorisation can also be issued for –

1. Physical exports
2. Intermediary supply
3. Supplies made to specified categories of deemed exports
4. Supply of 'stores' on board of foreign going vessel/aircraft provided there is specific SION in respect of items supplied.

# Advance Authorization Scheme

## **IV. Advance Authorisation for Annual Requirement**

- (i) Exporters having past export performance (in at least preceding two financial years) shall be entitled for Advance Authorisation for Annual requirement.
- (ii) Entitlement in terms of CIF value of imports shall be upto 300% of the FOB value of physical export and / or FOR value of deemed export in preceding financial year or Rs 1 crore, whichever is higher.
- (iii) Advance Authorisation for Annual Requirement shall only be issued for items notified in Standard Input Output Norms (SION), or valid Ad hoc norms exists on the date of issue of Authorisation. It is not available on self-declaration basis.

## **V. Value addition (VA)**

Value Addition for the purpose of this Chapter (except for Gems and Jewellery sector for which value addition is prescribed in paragraph 4.38 of FTP) shall be:-

$$VA = [(A - B) \times 100] / B,$$

Where A = FOB value of export realized / FOR value of supply received.

B = CIF value of inputs covered by Authorisation, plus value of any other input used on which benefit of DBK is claimed or intended to be claimed.

- If some items are supplied free of cost by foreign buyer, its notional value will be added in the CIF value of import and FOB value of export for purpose of calculating value addition. Exports to SEZ Developers/Co-developers, irrespective of currency of realization, would also be covered.
- Min value addition required to be achieved under AA is 15%, except for physical exports for which payments are not received in freely convertible currency and some other specified export products. For tea, min value addition is 50%

# Advance Authorization Scheme

## **Illustration**

Compute entitlement for advance authorisation for annual requirement for an exporter having export performance in past 3 years and last financial year's detail being :

- (a) Physical Export [FOB Rs. 20 lakh];
- (b) Deemed Exports [FOR Rs. 15 lakh].

## **Answer :**

Since exporter has export performance in at least past 2 years, it is eligible for advance authorisation for annual requirement.

The Entitlement would be :

- 300% of the [20 lakh + 15 lakh] = Rs. 105 lakh; or
  - Rs. 1 crore,
- whichever is higher i.e., Rs. 105 lakh.



# Advance Authorization Scheme

## VI. Domestic sourcing of inputs

Holder of advance authorisation has an option to procure the materials/inputs from indigenous manufacturer/STE in lieu of direct import against Advance Release Order (ARO)/Invalidation letter/Back to Back L/c. However, AA holder may obtain supplies from EOU/EHTP/BTP/STP/SEZ units, without obtaining ARO or Invalidation letter.

## VII. Conditions for redeeming authorisation/Accounting for Inputs -

❖ Wherever SION permits use of either

- (a) a generic input or
- (b) alternative input,

unless the name of the specific input together with quantity (which has been used in manufacturing the export product) gets indicated/endorsed in the relevant shipping bill and these inputs, so endorsed, within quantity specified and match the description in the relevant bill of entry, the concerned authorisation will not be redeemed.

**In other words, the name/description of the input in the Authorisation must match exactly with the name/description endorsed in the shipping bill.**

❖ In addition, if in any SION, a single quantity has been indicated against a number of inputs (more than one input), then quantities of such inputs to be permitted for import shall be in proportion to the quantity of these inputs actually used/consumed in production, within overall quantity against such group of inputs. Proportion of these inputs actually used/consumed in production of export product shall be clearly indicated in shipping bills.

# Advance Authorization Scheme

- ❖ If goods are imported against AA but export obligation is not fulfilled, duty and interest is payable.
- ❖ Aforesaid provisions will also be applicable for supplies to SEZs, supplies made under deemed exports and supplies to UN or International Organisations.

## **VIII. Admissibility of drawback**

Drawback as per rate determined and fixed by Customs authority shall be available for duty paid imported or indigenous inputs used in the export product.

## **IX. Details of Duties Exempted**

Imports under Advance Authorisation are exempted from payment of Basic Customs Duty, Additional Customs Duty, Education Cess, Anti-dumping Duty, Safeguard Duty and Transition Product Specific Safeguard Duty, wherever applicable. However, Import against supplies covered under paragraph 7.02 (c), (d) and (g) of FTP will not be exempted from payment of applicable Anti-dumping Duty, Safeguard Duty and Transition Product Specific Safeguard Duty, if any.

However, imports under Advance Authorisation for physical exports are also exempt from whole of the integrated tax and Compensation Cess leviable under sub-section (7) and sub-section (9) respectively, of section 3 of the Customs Tariff Act, 1975, and such imports shall be subject to pre-import condition. [omitted by NN 01/2019 - Customs, w.e.f. 10.01.2019]

Imports against Advance Authorisations for physical exports are exempted from Integrated Tax and Compensation Cess upto 31.03.2019 31.03.2020 only. [exemption extended by NN 08/2019- customs, dated 25.03.2019].

# Advance Authorization Scheme

## **X. Actual User Condition for Advance Authorisation**

Advance Authorisation and/or material imported under Advance Authorisation shall be subject to 'Actual User' condition. The same shall not be transferable even after completion of export obligation. However, Authorisation holder will have option to dispose of product manufactured out of duty free input once export obligation is completed.

## **XI. Validity Period for Import**

- (i) Validity period for import of Advance Authorisation shall be 12 months from the date of issue of Authorisation.
- (ii) Advance Authorisation for Deemed Export shall be co-terminus with contracted duration of project execution or 12 months from the date of issue of Authorisation, whichever is more.

## **XII. Export Obligation**

- (i) Period for fulfilment of export obligation under Advance Authorisation shall be 18 months from the date of issue of Authorisation or as notified by DGFT.

# Advance Authorization Scheme

## Illustration –

**(i) Flintex Manufacturers manufactures goods by using imported inputs and supplies the same under Aid Programme of the UN. The payment for such supply is received in Free foreign exchange. Can Flintex Manufacturers seek AA for the supplies made by it?**

**Ans -** Supply of goods to UN or international organizations for their official use or supplied to projects financed by them are 'deemed exports'. Advance Authorisation can be issued for supplies made to such 'deemed exports'. Therefore, Flintex Manufactures can seek an AA for the supplies made by it.

**(ii) "X" has used some duty paid inputs in its export products. However, for the rest of the inputs, he wants to apply for the AA. Can he do so? Explain.**

**Ans –** Yes, "X" can do so. In case of part duty free and part duty paid imports, both AA and drawback will be available. Drawback can be obtained for any duty paid material, whether imported or indigenous, used in goods exported, as per drawback rate fixed by DoR, Ministry of Finance (Directorate of Drawback). AA can be used for importing duty free material. Drawback allowed must be mentioned in the application for AA. In such case, All Industry Brand Rates are not applicable. The manufacturer has to get specific brand rate fixed from Commissioner for these exported goods.

# Advance Authorization Scheme

**(iii) P Ltd. imports goods worth Rs. 20 lakh free of cost from M Inc. of UK under advance authorisation. It also imported goods worth Rs. 50 lakhs under Advance Authorisation. The resultant product is supplied to M Inc. of UK at FOB value Rs. 65 lakhs. Determine whether aforesaid export is eligible export under Advance Authorisation.**

**Ans -**

In case of free of cost imports from foreign buyer (here, M/s M Inc.), the notional value of imports is added to purchase/sales both, i.e.,

CIF Value of Imports = Rs. 50 lakh + Rs. 20 lakh = Rs. 70 lakh; and

FOB Value of Export = Rs. 65 lakhs + Rs. 20 lakhs = Rs. 85 lakh

The minimum value – addition criteria is 15% of 70 lakh = Rs. 10.50 lakh and the same is met, as export value (i.e. Rs. 85 lakhs) is higher than minimum requirement (i.e. Rs. 80.50 lakhs)

**(iv) Jigsaw Puzzle has imported inputs, having CIF value of Rs 25,00,000 without payment of duty under Advance Authorization. Inputs are supplied free of cost valued at Rs 5,00,000 to meet eventualities of quality issues arising during manufacture.**

**On manufacturing, the products are supplied to units in SEZ and realization is in Indian currency.**

**Jigsaw Puzzle wants to know whether it is entitled to Advance Authorization scheme and what should be the minimum value addition. And you are required to compute FOR value of supplies to SEZ.**

**Jigsaw Puzzle has manufactured and supplied goods to international organizations in India from imported inputs for their office use. The payment for such supply is received in Indian currency. Can Advance Authorization be denied as payment has not been received in free foreign exchange?**

# Advance Authorization Scheme

The relevant calculations are –

1. CIF value of Input = 25 lakh + 5 lakh free of cost = 30 lakh
2. Output supplies (including value-addition) to be made = 30 lakh + 15% = 30 lakh + 4.5 lakh = 34.50 lakh
3. Normally, all realizations have to be made in foreign currency.
4. Supplies to United Nations or International Organization or SEZ are eligible.
5. However, Export to SEZ units shall be taken into account of discharge of export obligation provided payment is realised from Foreign Currency Account of the SEZ unit. This condition is violated.
6. In any other cases, Export proceeds shall be realized in freely convertible currency. This condition is violated.

# Duty Free Import Authorization (DFIA) Scheme

- ❖ Provisions applicable to AA are broadly applicable in case of DFIA. However, these Authorisations shall be issued only for products for which SION have been notified.
- ❖ DFIA is issued to allow duty free import of inputs. In addition, import of oil and catalyst which is consumed/utilized in the process of production of export product, may also be allowed.
- ❖ The goods imported are exempt ONLY from BCD. IGST will be payable on imports.
- ❖ DFIA shall be issued on post export basis for products for which SION have been notified. Separate DFIA shall be issued for each SION and each port.
- ❖ The applicant shall file an online application to RA concerned before starting exports under DFIA.
- ❖ Export shall be completed within 12 months from the date of online filing of application and generation of file number. While doing export/supply, applicant shall indicate file number on the export documents.
- ❖ After completion of exports and realization of export proceeds, request for issuance of transferable DFIA may be made to concerned RA within a period of
  - ❖ 12 months from the date of export
  - OR
  - ❖ 6 months (or additional time allowed by RBI for realization) from the date of realization of export proceeds,
  - ❖ Whichever is later.
- ❖ RA shall issue transferable DFIA with a validity of 12 months from the date of issue
- ❖ Exports proceeds shall be realized in freely convertible currency except otherwise specified.
- ❖ **Import of Tyres under DFIA scheme is not allowed. [Inserted by DGFT-NN 38/2015-2020, dt 6-10-2020]**

# Duty Free Import Authorization (DFIA) Scheme

**I. No DFIA for 'Actual User' condition inputs** – No DFIA shall be issued for an export product where SION prescribes 'Actual User' condition for any input or for an input which is subjected to pre-import condition or Appendix-4J prescribes per import condition for such an input.

## **II. Domestic sourcing of inputs**

Holder of DFIA has an option to procure the materials/inputs from indigenous manufacturer/STE in lieu of direct import against Advance Release Order (ARO)/Invalidation letter/Back to Back L/c. However, DFIA holder may obtain supplies from EOU/EHTP/BTP/STP/SEZ units, without obtaining ARO or Invalidation letter.

## **III. Conditions for redeeming authorisation -**

It is necessary that inputs that are actually to be used in manufacture of the export product should only be imported under the authorisation and inputs actually imported must be used in the export product, for redeeming the DFIA.

The name/description of the input in the DFIA must match exactly with the name/description endorsed in the shipping bill.

Further, quantity of input to be allowed under DFIA shall be in proportion to the quantity of input actually used/consumed in production.

If goods are imported against DFIA but export obligation is not fulfilled, duty and interest is payable.

Aforesaid provisions will also be applicable for supplies to SEZs and supplies made under deemed exports.



# Duty Free Import Authorization (DFIA) Scheme

## **IV. Value addition (VA)**

Value Addition for the purpose of this Chapter (except for Gems and Jewellery sector for which value addition is prescribed in paragraph 4.38 of FTP) shall be:-

$$VA = [(A - B) \times 100] / B,$$

Where A = FOB value of export realized / FOR value of supply received.

B = CIF value of inputs covered by Authorisation, plus value of any other input used on which benefit of DBK is claimed or intended to be claimed.

- If some items are supplied free of cost by foreign buyer, its notional value will be added in the CIF value of import and FOB value of export for purpose of calculating value addition. Exports to SEZ Developers/Co-developers, irrespective of currency of realization, would also be covered.
- Min value addition required to be achieved under DFIA is 20%, except for physical exports for which payments are not received in freely convertible currency

## **V. Admissibility of drawback**

Drawback as per rate determined and fixed by Customs authority shall be available for duty paid imported or indigenous inputs used in the export product.

# Duty Free Import Authorization (DFIA) Scheme

## **Illustration**

Explain the conditions for redeeming authorisation under duty free import authorisation scheme as per Foreign Trade Policy 2015-2020.

## **Answer :**

DFIA scheme is also an advance authorisation scheme in which benefit availed in advance of duty free imports of inputs, oils, catalysts to produce goods for export is authorised by Regional Authority under Foreign Trade Policy 2015-2020.

For redeeming the DFIA scheme, export obligation shall be fulfilled with value addition norms. The minimum value addition under the scheme is 20%.

The export obligation shall be fulfilled within 12 months from the date of application and generation of file number. While doing export file no. should be indicated on the documents such as shipping bill, ARE-1 etc. after completion of export obligation, the DFIA holder has to apply to Regional Authority for redemption/ transferability of the scheme.

It is relevant to note that under DFIA Scheme, both scheme and the imported material are transferable.

# Duty Free Import Authorization (DFIA) Scheme

AA	DFIA
AA is not transferable	DFIA is transferable after export obligation is fulfilled
AA scheme requires min 15% Value Addition	DFIA requires min 20% value addition
AA scheme is available to Gem and Jewellery Sector	DFIA is not available to Gem and Jewellery Sector
AA can be issued where SION prescribes actual user condition	DFIA cannot be issued where SION prescribes actual user condition
AA can be issued even if SION for that product is not fixed.	DFIA can be issued only if SION has been fixed for that product to be exported
IGST has been exempted on imports under AA scheme	No such exemption is available if imports are under DFIA scheme.

# Duty Remission Schemes

## I. Duty Drawback (DBK) Scheme

- Various schemes like EOU, SEZ, DFIA, Advance Authorisation, manufacture under bond etc. are available to obtain inputs without payment of customs duty or obtain refund of duty paid on inputs.
- Suppliers who are unable to avail any of these schemes can avail 'duty drawback'. Here, the custom duty paid on inputs is given back to the exporter of finished product by way of 'duty drawback'. Sec 75 of Customs Act, 1962 provide for drawback on materials used in manufacture or processing of export product.
- It may be noted that duty drawback under sec 75 is granted when imported materials are used in the manufacture of goods which are then exported, while duty drawback under sec 74 is applicable when imported goods are re-exported as it is, and article is easily identifiable.
- As per rule 2(a) of the Customs and Central Excise Duties Drawback Rules, 2017, drawback in relation to any goods manufactured in India and exported, means the rebate of duty excluding IGST and Compensation Cess, chargeable on any imported materials or excisable materials used in the manufacture of such goods.

## I. Duty Remission Scheme in Custom Law – Duty Remission/exemption is also granted under Custom Law

# Reward Schemes – MEIS, SEIS and Status Holder

- ❖ Reward schemes are the schemes which entitle the exporters to duty credit scrips subject to various conditions.
- ❖ These scrips can be used for
  1. Payment of custom duties on import of inputs/goods including notified capital goods.
  2. Payment of excise duties on domestic procurement of inputs or goods, including capital goods as per DoR notification.
  3. Payment of service tax on procurement of services as per DoR notification.
- ❖ These scrips are transferable, i.e. they can be sold in market, if the holder of duty credit scrip does not intend to import goods against the scrips. Goods imported under the scrip are also freely transferable.
- ❖ Following are two schemes for exports of merchandise and services –
  - ❖ Merchandise Exports from India Scheme (MEIS)
  - ❖ Service Exports from India Scheme (SEIS)

**I. Objective** - Objective of Merchandise Exports from India Scheme (MEIS) is to offset infrastructural inefficiencies and associated costs involved in export of goods/products, which are produced/manufactured in India, especially those having high export intensity, employment potential and thereby enhancing India's export competitiveness.

**II. Entitlement under MEIS** - Exports of notified goods/products with ITC[HS] code, to notified markets as listed in Appendix 3B, shall be rewarded under MEIS. Appendix 3B also lists the rate(s) of rewards on various notified products [ITC (HS) code wise].

The basis of calculation of reward would be on  
**realised FOB value of exports in free foreign exchange,**

**or**

**on FOB value of exports as given in the Shipping Bills in free foreign exchange,**

**whichever is less,**

unless otherwise specified.

**Ila Ceiling / cap on MEIS benefits available to exporters on exports made from 1-9-2020 to 31-12-2020 [NN 30/2015-2020, dt 1-9-2020]**

The total reward which may be granted to an IEC holder under the MEIS Scheme shall not exceed ₹ 2 crore per IEC on exports made in the period 1-9-2020 to 31-12-2020 [period based on Let Export Order (LEO) & date of shipping bill(s)]. Any IEC holder who has not made any export with LEO date during the period 1-9-2019 to 31-08-2020 or any new IEC obtained on or after 1-9-2020 would not be eligible for submitting any claim for benefits under MEIS for exports made

with effect from 1-9-2020. The aforesaid ceiling may be subject to further downward revision to ensure that the total claim under the Scheme for the period (1-9-2020 to 31-12-2020) does not exceed the allocation prescribed by the Government, which is ₹ 5,000 Cr.

## **IIb MEIS Scheme Withdrawn**

Benefits under MEIS shall not be available for exports made with effect from 1-1-2021.

**IIc Scheme of Remission of Duties and Taxes on Exported Products (RoDTEP) [Inserted vide NN 76/2021-Customs (N.T.), dated 23-9-2021]**

### **III. Ineligible categories under MEIS**

The following exports categories /sectors shall be ineligible for Duty Credit Scrip entitlement under MEIS

- (i) Supplies made from DTA units to SEZ units
- (ii) Exports through trans-shipment, meaning thereby exports that are originating in third country but transshipped through India;
- (iii) Deemed Exports;
- (iv) SEZ/EOU/EHTP/BPT/FTWZ products exported through DTA units;
- (v) Export products which are subject to Minimum export price or export duty
- (vi) Exports made by units in FTWZ

### **IV. Export of goods through courier or foreign post offices using e-Commerce**

- (i) Exports of handicraft items, handloom products, books/periodicals, leather footwear, toys and tailor made fashion garments through courier or foreign post office using e-commerce, of FOB value upto ₹ 500,000 per consignment shall be entitled for rewards under MEIS.
- (ii) If the value of exports using e-commerce platform is more than ₹ 500,000 per consignment, then MEIS reward would be limited to FOB value of ₹ 500,000 only.

E-commerce means buying and selling of goods and services, including digital products, conducted over digital and electronic network. For the purpose of MEIS, e-commerce shall mean the export of goods hosted on a website accessible through the internet to a purchaser. While the dispatch of goods shall be made through courier or postal mode, as specified under MEIS, the payment for goods purchased on e-commerce platform shall be done through international credit/debit cards and as per RBI Circular (RBI/2015-16/185) as amended from time to time.



## **Illustration**

Determine reward under Merchandise Exports from India Scheme (MEIS) from the following particulars.

1. Goods 'Y' where FOB value realised is Rs. 5,00,000 while FOB in shipping bill is Rs. 5,20,000.
2. Goods 'Z' where FOB value realised is Rs. 7,20,000 (due to exchange gain) while FOB in shipping bill is Rs. 7,00,000.
3. Exports of Product 'Y' through e-commerce platform with FOB value = Rs. 6,00,000.
4. Exports of Product 'Z' through e-commerce platform with FOB value = Rs. 3,00,000.
5. Deemed Exports with FOR value = Rs. 20,000.
6. Export of Services = Rs. 1,00,000.
7. Supplies made from DTA units to SEZ units = 5,00,000
8. Rate of reward under MEIS = 5%.

**Answer :**

The MEIS reward is as computed below :

S.No.	Particulars	Amount in Rs.
1.	Goods 'Y' where FOB value realised is Rs. 5,00,000 while FOB in shipping bill is Rs. 5,20,000 [FOB value realised or FOB value in shipping bill, whichever is lower is to be taken]	5,00,000
2.	Goods 'Z' where FOB value realised is Rs. 7,20,000 (due to exchange gain) while FOB in shipping bill is Rs. 7,00,000 [FOB value realised or FOB value in shipping bill, whichever is lower is to be taken]	7,00,000
3.	Exports of Product 'Y' through e-commerce platform with FOB value Rs. 6,00,000 [For MEIS computation, value is to be restricted to Rs. 5,00,000]	5,00,000
4.	Exports of Product 'Z' through e-commerce platform with FOB value Rs. 3,00,000 [For MEIS computation, value is to be restricted to Rs.5,00,000 and it is already within that limit]	3,00,000
5.	Deemed Exports [Not eligible for MEIS]	Nil
6.	Export of Services [Not eligible for MEIS]	Nil
7.	Supplies made from DTA units to SEZ units	Nil
	Total	20,00,000
	MEIS Reward @ 5%	1,00,000

# Remission of Duties and Taxes on Exported Products (RoDTEP)

[NN 75,76/2021-Customs (N.T.), dated 23-9-2021, NN 19/2015-2020-FTP, dated 17-8-2021 and Circular No. 23/2021-Customs, dated 30-9-2021]

## Scheme objective and Operating Principles

The Scheme's objective is to refund, currently un-refunded:

- a) Duties/taxes/levies, at the Central, State and local level, borne on the exported product, including prior stage cumulative indirect taxes on goods and services used in the production of the exported product and
- b) Such indirect Duties/taxes/levies in respect of distribution of exported product.

The rebate under the Scheme shall not be available in respect of duties and taxes already exempted or remitted or credited.

## Conditions under RoDTEP Scheme

The duty credit shall be subject to the following conditions, namely:-

(1) that the duty credit is issued –

- (a) in lieu of remission of any duty or tax or levy, chargeable on any material used in the manufacture or processing of goods or for carrying out any operation on such goods in India that are exported, where such duty or tax or levy is not exempted, remitted or credited under any other Scheme;
- (b) against export of goods notified in Appendix 4R (hereinafter referred to as the "Appendix") of the FTP, at the respective rate and cap notified under the said Appendix:

**Provided** that the value of the said goods for calculation of duty credit to be allowed under the Scheme shall be the declared export FOB value of the said goods or up to 1.5 times the market price of the said goods, whichever is less;

# Remission of Duties and Taxes on Exported Products (RoDTEP)

- (c) against claim of duty credit under the Scheme made by an exporter by providing the appropriate declaration at the item level in the shipping bill or bill of export in the customs automated system;
  - (d) against the shipping bill or bill of export, presented under section 50 of the said Act on or after the 1 st day of January, 2021, and where the order permitting clearance and loading of goods for exportation under section 51 of the said Act has been made;
  - (e) after the claim is allowed by Customs upon necessary checks, including on the basis of risk evaluation through appropriate selection criteria, and after filing of export manifest or export report;
  - (f) in accordance with any rules or regulations issued in relation to duty credit, e-scrip or electronic duty credit ledger;
- (2) that such duty credit shall be used for payment of the duty of customs leviable under the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) on goods when imported into India;
- (3) that the export categories or sectors listed in Table-1 annexed hereto shall not be eligible for duty credit under the Scheme;
- (4) that the duty credit allowed under the Scheme against export of goods notified in the Appendix shall be subject to realization of sale proceeds in respect of such goods in India within the period allowed under the Foreign Exchange Management Act, 1999 (42 of 1999); failing which such duty credit shall be deemed to be ineligible;

# Remission of Duties and Taxes on Exported Products (RoDTEP)

(5) that the imports and exports are undertaken through the seaports, airports or through the inland container depots or through the land customs stations which allow the bill of entry and shipping bill or bill of export to be presented and processed electronically on the customs automated system;

(6) that the exporter has the option to generate e-scrips within a period of 1 year from the issuance of duty credit scrips. If this option is not availed by an exporter, then, e-scrips shall be generated automatically by customs automated system and it shall be maintained in the electronic duty credit ledger;

(7) that the e-scrip shall be valid for a period of 2 years ~~1 year~~ from the date of its generation and any duty credit in the said e-scrip remaining unutilized at the end of this period shall lapse and the duty credit in the e-scrip that has lapsed shall not be re-generated. **[The validity period of scrips is increased from 1 year to 2 years from the date of their generation, by NN 79/2022 – Customs (N.T.), dated 15.09.2022]**

(8) that the e-scrip shall be freely transferable; however, the period of validity of the e-scrip shall not change on account of transfer of the e-scrip.

35.

# Remission of Duties and Taxes on Exported Products (RoDTEP)

## **Cancellation of duty credit. –**

- (1) Where a person contravenes any of the provisions of the Act or any other law for the time being in force or the rules or regulations made thereunder in relation to exports to which the duty credit relates, or in relation to the e-scrip, the Principal Commissioner of Customs or Commissioner of Customs having jurisdiction over the customs station of registration of the e-scrip may, after enquiry, pass an order to cancel the said duty credit or e-scrip.
- (2) Where the e-scrip is so cancelled, the duty credit amount in the said e-scrip shall be deemed never to have been allowed and the proper officer of Customs shall proceed to recover the duty credit amount used in such e-scrip or transferred from such e-scrip.
- (3) The proper officer of Customs may, without prejudice to any other action that may be taken under this Act or any other law for the time being in force, suspend the operation of the said e-scrip or the electronic duty credit ledger of such exporter or any duty credit transferred from such e-scrip, during pendency of the enquiry under sub-clause (1).

## **Recovery of amount of duty credit. –**

- 1) Where an amount of duty credit has, for any reason, been allowed in excess of what the exporter is entitled to, the exporter shall repay the amount so allowed in excess, himself or on demand by the proper officer, along with interest, at the rate as fixed under section 28AA for the purposes of that section, on that portion of duty credit allowed in excess, which has been used or transferred, and where the exporter fails to repay the amount along with interest, as applicable, it shall be recovered in the manner provided in section 142 of the said Act.

# Remission of Duties and Taxes on Exported Products (RoDTEP)

~~2) The duty credit amount that an exporter is so required to repay under sub-clause (1) shall be deemed never to have been allowed, and if the exporter fails to repay the said amount within a period of fifteen days along with interest so demanded, then the proper officer of Customs may, without prejudice to any action against the exporter, proceed for recovery of the said duty credit amount from the transferee in the manner as provided in section 142 of the said Act.~~  
**[Omitted by NN 75/2022 – Customs (N.T.), dated 14.09.2022]**

## **Recovery of amount of duty credit where export proceeds are not realised. –**

- 1) Where an amount of duty credit has been allowed to an exporter but the sale proceeds in respect of such export goods have not been realized by the exporter in India within the period allowed under the Foreign Exchange Management Act, 1999 (42 of 1999), the exporter shall, himself or on demand by the proper officer, repay the amount of duty credit, along with interest, at the rate as fixed (@15% p.a.) under section 28AA of the said act for the purposes of that section, within 15 days of expiry of the said period.
- 2) In case any extension of the said period for realisation of sale proceeds has been given by the Reserve Bank of India and the exporter produces evidence of such extension to the proper officer, and if the said sale proceeds are not realised in such extended period, the exporter shall repay the said amount of duty credit along with the said interest, within fifteen days of expiry of the said period.
- 3) If a part of the sale proceeds has been realized, the amount of duty credit to be recovered shall be the amount equal to that portion of the amount of duty credit allowed which bears the same proportion as the portion of the sale proceeds not realized bears to the total amount of sale proceeds.
- 4) Where the exporter fails to repay the duty credit amount within the said period of fifteen days, the said duty credit shall be deemed never to have been allowed and it shall be recovered, along with the said interest, in the manner as provided in section 142 of the said Act.

# Remission of Duties and Taxes on Exported Products (RoDTEP)

- 5) ~~The proper officer of Customs may, without prejudice to any action against the exporter, proceed for recovery of said duty credit amount from the transferee in the manner as provided in section 142 of the said Act. [Omitted by NN 75/2022 – Customs (N.T.), dated 14.09.2022]~~
- 6) During the pendency of any recovery, as provided in clauses 4 and 5, no further duty credit, on any subsequent exports, shall be allowed to such exporter till the time such recovery is made and any unutilised duty credit with the exporter ~~or the transferee~~ shall be suspended pending such recovery. **[Words “or the transferee” omitted by NN 75/2022 – Customs (N.T.), dated 14.09.2022]**

## **Effect of Amendment made by NN 75/2022 – Customs (N.T.), dated 14.09.2022:**

Due to defaults of the Exporter, no action (i.e. recovery or suspension of duty credit scrip) can be taken against the Transferee-holder of the Scrip.

**Explanation** – For the purposes of this notification –

- (a) “Claim” means a claim of duty credit under the Scheme made by an exporter in the shipping bill or bill of export by providing the appropriate declaration at the item level in the said shipping bill or bill of export in the customs automated system;
- (b) “Duty credit” means the amount of credit of duty allowed by Customs against a claim under the Scheme;
- (c) “Electronic duty credit ledger” means the ledger in the customs automated system relating to a person who is the recipient of duty credit or to person to whom the duty credit is transferred;



# Remission of Duties and Taxes on Exported Products (RoDTEP)

- d) “E-scrip” means the scrip, created in the ledger for duty credit, as mentioned in Explanation 1 of section 28AAA of the said Act;
- e) “Export manifest” or “export report” means the reference to the terms used in Section 41 of the said Act;
- f) “Foreign Trade Policy” means the Foreign Trade Policy published by the Government of India in the Ministry of Commerce and Industry and as amended from time to time;
- g) “Proper officer” means Deputy Commissioner or Assistant Commissioner of Customs.

# Remission of Duties and Taxes on Exported Products (RoDTEP) - TABLE

Sl. No. (1)	Export categories or sectors ineligible for duty credit (2)
1.	Goods which are restricted or prohibited for export under Schedule-2 of Export Policy in ITC-HS
2.	Export of imported goods covered under paragraph 2.46 of Foreign Trade Policy
3.	Exports through trans-shipment, meaning thereby exports that are originating in third country but trans-shipped through India
4.	Goods subject to minimum export price or export duty
5.	Deemed exports under Foreign Trade Policy
6.	Goods manufactured or exported by any of the units situated in Special Economic Zone/ Free Trade Warehousing Zone/Electronic Hardware Technology park/Bio-Technology park/ Export Processing Zone
7.	Goods manufactured or exported by a unit licensed as hundred per cent Export Oriented Unit
8.	Goods exported under Advance Authorisation or Duty Free Import Authorisation issued under the relevant Foreign Trade Policy
9.	Goods manufactured and supplied by units in Domestic Tariff Area to units in Special Economic Zone/Free Trade Warehousing Zone
10.	Goods manufactured in Special Economic Zone/Free Trade Warehousing Zone / Export Oriented Unit / Electronic Hardware Technology Park /Bio-Technology Park/ Export Processing Zone and exported through DTA unit
11.	Goods manufactured partly or wholly in a warehouse under section 65 of the Customs Act, 1962 (52 of 1962)
12.	Goods availing the benefit of the notification No. 32/1997-Customs, dated the 1st April, 1997
13.	Goods for which claim of duty credit is not filed in a shipping bill or bill of export in the customs automated system
14.	Goods that have been taken into use after manufacture.

## **I. Objective**

Objective of Service Exports from India Scheme (SEIS) is to encourage export of notified Services from India.

## **Eligibility**

### **(a) Service Providers**

- (a) Service Providers should have active IEC at the time of rendering services
- (b) Service Providers should provide notified services rendered in the specified manner,
- (c) Service Providers should provide be located in India
- (b) Such service provider should have
  - (a) For Individual Service Providers and sole proprietorship, such minimum net free foreign exchange earnings criteria would be US\$10,000 in preceding financial year.
  - (b) For other service providers - minimum net free foreign exchange earnings of US\$15,000 in preceding financial year to be eligible for Duty Credit Scrip.
- (c) Payment in Indian Rupees for service charges earned on specified services, shall be treated as receipt in deemed foreign exchange as per guidelines of Reserve Bank of India.
- (d) If the IEC holder is a manufacturer of goods as well as service provider, then the foreign exchange earnings and Total expenses / payment / remittances shall be taken into account for service sector only.

**Net Foreign exchange earnings** for the scheme are defined as under: Net Foreign Exchange = Gross Earnings of Foreign Exchange minus Total expenses / payment / remittances of Foreign Exchange by the IEC holder, relating to service sector in the Financial year.

**“Services”** include all tradable services covered under General Agreement on Trade in Services (GATS) and earnings foreign exchange.

**“Service Provider”** means a person providing:

- i. Supply of a ‘service’ from India to any other country (Mode 1 - Cross Border Trade)
- ii. Supply of a ‘service’ from India to service consumer(s) of any other country in India (Mode 2 – Consumption Abroad)
- iii. Supply of a ‘service’ from India through commercial presence in any other country (Mode 3 – Commercial Presence)
- iv. Supply of a ‘service’ from India through presence of natural persons in any other country (Mode 4 – Presence of natural persons)

### **Ineligible categories under SEIS**

- (1) Foreign exchange remittances other than those earned for rendering of notified services would not be counted for entitlement. Thus, other sources of foreign exchange earnings such as **equity or debt participation, donations, receipts of repayment of loans** etc. and any other inflow of foreign exchange, unrelated to rendering of service, would be ineligible.

- 2) Following shall not be taken into account for calculation of entitlement under the scheme -
- a) Foreign Exchange remittances:
    - I. Related to Financial Services Sector**
      - i. Raising of all types of foreign currency Loans;
      - ii. Export proceeds realization of clients;
      - iii. Issuance of Foreign Equity through ADRs / GDRs or other similar instruments;
      - iv. Issuance of foreign currency Bonds;
      - v. Sale of securities and other financial instruments;
      - vi. Other receivables not connected with services rendered by financial institutions; and
    - II. Earned through contract/regular employment abroad (e.g. labour remittances);**
  - b) Payments for services received from EEFC Account;
  - c) Foreign exchange turnover by Healthcare Institutions like equity participation, donations etc.
  - d) Foreign exchange turnover by Educational Institutions like equity participation, donations etc.
  - e) Export turnover relating to services of units operating under SEZ / EOU / EHTP / STPI / BTP Schemes or supplies of services made to such units;
  - f) Clubbing of turnover of services rendered by SEZ / EOU / EHTP / STPI / BTP units with turnover of DTA Service Providers;
  - g) Exports of Goods.
  - h) Foreign Exchange earnings for services provided by Airlines, Shipping lines service providers plying from any foreign country X to any foreign country Y routes not touching India at all.
  - i) Service providers in Telecom Sector.

## **Common Provisions for Exports from India Scheme (MEIS and SEIS)**

- i) Drawback** – Basic Custom duty paid in cash or through debit under Duty Credit Scrip shall be adjusted for Duty Drawback as per DoR rules or notifications. Duty credit scrip shall be permitted to be utilized for payment of customs duty in case of import of capital goods under lease financing.
- ii) Transfer of export performance** – Transfer of export performance from one IEC holder to another IEC holder shall not be permitted. Thus, a shipping bill containing name of applicant shall be counted in export performance/turnover of applicant only if export proceeds from overseas are realized in applicant's bank account and this shall be evidenced from e-BRC/FIRC. However, MEIS rewards can be claimed either by the supporting manufacturer (alongwith disclaimer from the company/firm who has realized the foreign exchange directly from overseas) or by the company/firm who has realized the foreign exchange directly from overseas.
- iii) Incentives of MEIS & SEIS are available to units located in SEZs also.**

## **Illustration**

Examine whether benefit of Service Exports from India Scheme (SEIS) can be availed with respect to notified services provided by service providers located in India in the current financial year in the following independent cases –

(i) Net Foreign exchange earned by Mr Ani, a service provider, in the year of rendering service is USD 3,000

**Ans** – Mr Ani, is not eligible for SEIS Scheme as his net foreign exchange earnings are less than \$ 10,000 (min for individuals)

(ii) X & Y Brothers, a firm of service providers, has earned net foreign exchange to the tune of \$ 16,500 in the year of rendering service.

**Ans** – X & Y Brothers, are eligible for the Scheme as their net foreign exchange earnings exceed the limit of \$ 15,000 (min. limit for firms)

(iii) Mr I, a service provider, has earned net foreign exchange of \$ 12,000 in the year of rendering service. Out of this, \$ 3,000 has been paid to Mr. I through the credit card of the foreign client.

**Ans** – Foreign exchange earned through credit cards is counted for the purpose of computing the limit of min net foreign exchange required for being eligible to SEIS Scheme. Thus, Mr I is eligible for SEIS Scheme.

**Note – All the above service providers have an active IEC at the time of rendering services.**

# Status Holder

- ❖ Status Holders are business leaders who have excelled in international trade and have successfully contributed to country's foreign trade. Status Holders are expected to not only contribute towards India's exports but also provide guidance and handholding to new entrepreneurs.
- ❖ All exporters of goods, services and technology having an import-export code (IEC) number shall be eligible for recognition as a status holder. Status recognition depends upon export performance.
- ❖ An applicant shall be categorized as status holder upon achieving export performance during current and previous three financial years, as indicated below.

Status Category	Export Performance FOB / FOR (as converted) (in US \$ million)
One Star Export House	3
Two Star Export House	25
Three Star Export House	100
Four Star Export House	500
Five Star Export House	2,000

- ❖ The export performance will be counted on the basis of FOB value of export earnings in free foreign exchange.
- ❖ For deemed export, FOR value of exports in Indian Rupees shall be converted in US\$ at the exchange rate notified by CBIC, as applicable on 1st April of each Financial Year.
- ❖ For granting status, export performance is necessary in at least 2 out of 4 years.



# Status Holder

- ❖ Grant of double weightage
  - (a) The exports by IEC holders under the following categories shall be granted double weightage for calculation of export performance for grant of status.
    - i. Micro, Small & Medium Enterprises (MSME) as defined in Micro, Small & Medium Enterprises Development (MSMED) Act 2006.
    - ii. Manufacturing units having ISO/BIS.
    - iii. Units located in North Eastern States including Sikkim and Jammu & Kashmir.
    - iv. Units located in Agri Export Zones
  - (b) Double Weightage shall be available for grant of One Star Export House Status category only. Such benefit of double weightage shall not be admissible for grant of status recognition of other categories namely Two Star Export House, Three Star Export House, Four Star export House and Five Star Export House.
  - (c) A shipment can get double weightage only once in any one of above categories.
- ❖ Export performance of one IEC holder shall not be permitted to be transferred to another IEC holder. Hence, calculation of exports performance based on disclaimer shall not be allowed.
- ❖ Exports made on re-export basis shall not be counted for recognition.
- ❖ Export of items under authorization, including SCOMET items, would be included for calculation of export performance.

# Status Holder

## ❖ **Privileges of Status Holders - A Status Holder shall be eligible for privileges as under:**

- a) Authorisation and Customs Clearances for both imports and exports may be granted on self-declaration basis;
- b) Input-Output norms may be fixed on priority within 60 days by the Norms Committee;
- c) Exemption from furnishing of Bank Guarantee for Schemes under FTP, unless specified otherwise anywhere in FTP or HBP;
- d) Exemption from compulsory negotiation of documents through banks. Remittance / receipts, however, would be received through banking channels;
- e) Two star and above Export houses shall be permitted to establish Export Warehouses as per Department of Revenue guidelines;
- f) Three Star and above Export House shall be entitled to get benefit of Accredited Clients Programme (ACP) as per the guidelines of CBIC;
- g) DGFT vide Notification No. 28/2015-20 dt 27-8-2018 has provided that status holders shall be entitled to export freely exportable items (excluding Gems and Jewellery, Articles of Gold and precious metals) on free of cost basis for export promotion subject to an annual limit as below –
  - a) Annual limit of 2% of average annual export realization during preceding three licencing years for all exporters (excluding the exporters of following sectors – (1) Gems and Jewellery Sector. (2) Articles of Gold and precious metals sector).
  - b) Annual limit of ₹ 1 Cr or 2% average annual export realization during preceding three licensing years, whichever is lower. (for exporters of the following sectors – (1) Gems and Jewellery Sector, (2) Articles of Gold and precious metals sector).

## **Illustration**

M/s PQR Ltd., a micro enterprise, covered under MSMED Act has made exports of machineries worth US \$ 18 lakhs per annum during last four years. It wants to export certain goods for export promotion on free of cost basis, which are worth Rs. 15 lakh. Can it do so, given that 1 \$ = Rs. 50.

## **Answer :**

Exports by MSMEs are given double weightage for determination of one-star status. Hence, for said purpose, exports are worth = \$ 18 lakhs × 2 = \$ 36 lakh = 3.6 million. Therefore, X Ltd. is eligible for status of one star.

- A status holder can export goods free of cost for export promotion as follows :
- 2% of average exports of last three years i.e., 2% of \$ 18 lakhs × Rs. 50 per \$ = Rs. 18 lakhs

Free of cost Exports upto Rs. 18 lakhs are eligible. Therefore, it can export free goods worth Rs. 15 lakhs.

# Status Holder

## Illustration –

Two exporters namely, X Pvt Ltd and Y Pvt Ltd have achieved the status of Status Holders (One Star Export House) in the current FY. Both the exporters have been regularly exporting goods (Other than Gems and Jewellery) every year. What would have been the min export performance of the two exporters to achieve such status?

Both the exporters want to establish export warehouses in accordance with the applicable guidelines. What would be their export turnover to enable them to establish export warehouses?

## Ans –

- ❖ In order to be categorized as One Star Export House, an exporter needs to achieve the export performance of US \$ 3 million [FOOB/FOR (as converted)] during current and previous three financial years. Thus, export performance of X Pvt Ltd and Y Pvt Ltd would have been at least US \$ 3 million [FOB/FOR(as converted)] during current and previous 3 FY. For granting status, export performance is necessary in at least 2 out of 4 years.
- ❖ Further, Two Star Export Houses and above are permitted to establish export warehouses. Therefore, X Pvt Ltd and Y Pvt Ltd can establish export warehouses in India only if they achieve the status of Two Star Export House and above. In order to achieve said status, export performance of the exporters during current and previous 3 FY should be -

Status Category	Export Performance FOB / FOR (as converted) (in US \$ million)
Two Star Export House	25
Three Star Export House	100
Four Star Export House	500
Five Star Export House	2,000

# Export Promotion Capital Goods Scheme (EPCG)

- ❖ EPCG Scheme allows import of capital goods for pre-production, production and post-production at Zero customs duty. Alternatively, the Authorisation holder may also procure Capital Goods from indigenous sources in accordance with provisions of FTP.
- ❖ Capital goods imported under EPCG Authorisation for physical exports are also exempt from IGST and Compensation Cess upto ~~30-6-2022~~ **[Time limit of exemption removed by NN 37/2022 - Customs, dated 30.06.2022]**.
- ❖ Import under EPCG Scheme shall be subject to an export obligation equivalent to 6 times of duty saved on capital goods, to be fulfilled in 6 years reckoned from date of issue of Authorisation.
- ❖ Authorisation shall be valid for import for 18 months from the date of issue of Authorisation. Revalidation of EPCG Authorisation shall not be permitted.
- ❖ Import of Capital Goods shall be subject to 'Actual User' condition till export obligation is completed. After export obligation is completed, capital goods can be sold or transferred.
- ❖ In case IGST and compensation cess are paid in cash on imports under EPCG, incidence of the said IGST and compensation cess would not be taken for computation of net duty saved, provided input tax credit is not availed.
- ~~❖ Second hand capital goods shall not be permitted to be imported under EPCG Scheme.~~
- ❖ Authorisation under EPCG Scheme shall not be issued for import of any Capital Goods (including Captive plants and Power Generator Sets of any kind) for
  - (i) Export of electrical energy (power)
  - (ii) Supply of electrical energy (power) under deemed exports
  - (iii) Use of power (energy) in their own unit, and
  - (iv) Supply/export of electricity transmission services **[Omitted by updated FTP, w.e.f. 5th December, 2017]**.

# Export Promotion Capital Goods Scheme (EPCG)

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- ❖ Authorisation shall be valid for import for 18 months from the date of issue of Authorisation. Revalidation of EPCG Authorisation shall not be permitted.
- ❖ Import of Capital Goods shall be subject to 'Actual User' condition till export obligation is completed. After export obligation is completed, capital goods can be sold or transferred.
- ❖ In case IGST and compensation cess are paid in cash on imports under EPCG, incidence of the said IGST and compensation cess would not be taken for computation of net duty saved, provided input tax credit is not availed.
  
- ❖ Import of capital goods for Project Imports notified is also permitted under EPCG Scheme.
- ❖ **Eligible exporters** – Following exporters are eligible for EPCG scheme –
  - Manufacturer exporters with or without supporting manufacturer.
  - Merchant exporters tied to supporting manufacturer(s), and
  - Service providers including service providers designated as Common Service Providers (CSP) subject to prescribed conditions.

# Export Promotion Capital Goods Scheme (EPCG)

## ❖ **Eligible Capital Goods –**

- (i) Capital Goods including in CKD/SKD condition thereof;
- (ii) Computer software systems;
- (iii) Spares, moulds, dies, jigs, fixtures, tools & refractories for initial lining and spare refractories; and
- (iv) Catalysts for initial charge plus one subsequent charge.
- (v) Capital Goods for Project Imports notified by CBIC

## ❖ **Export Obligation –** Export obligation means obligation to export product(s) covered by Authorisation/permission in terms of quantity or value or both, as may be prescribed/specified by Regional or competent authority.

## ❖ Export obligation consists of average export obligation and specific export obligation.

- ❖ **Specific export obligation** (Specific EO) under EPCG is equivalent to 6 times of duty saved on capital goods imported under EPCG scheme, to be fulfilled in 6 years reckoned from Authorisation issue-date. Specific EO is over and above the Average EO.

**Note –** In case of direct imports, EO shall be reckoned with reference to actual duty saved amount. In case of domestic sourcing, EO shall be reckoned with reference to notional Customs duties saved on FOR value.

- ❖ **Average export obligation** (Average EO) under EPCG scheme is the average level of exports made by the applicant in the preceding 3 licencing years for the same and similar products. It has to be achieved within the overall EO period (including extended period unless otherwise specified)

# Export Promotion Capital Goods Scheme (EPCG)

## ❖ **Conditions applicable to the fulfilment of the Export Obligation (EO) –**

- (a) EO shall be fulfilled by the authorisation holder through export of goods which are manufactured by him or his supporting manufacturer / services rendered by him, for which the EPCG authorisation has been granted.
- (b) EO under the scheme shall be, over and above, the average level of exports achieved by the applicant in the preceding three licensing years for the same and similar products within the overall EO period including extended period, if any; except for categories as mentioned. Such average would be the arithmetic mean of export performance in the preceding three licensing years for same and similar products.
- (c) In case of indigenous sourcing of Capital Goods, specific EO shall be 25% less than the EO stipulated i.e EO will be 4.5 times (75% of 6 times) of duty saved on such goods procured.
- (d) Shipments under Advance Authorisation, DFIA, Drawback scheme or reward schemes ; would also count for fulfillment of EO under EPCG Scheme.
- (e) Export shall be physical export. However, deemed exports as specified shall also be counted towards fulfillment of export obligation, alongwith usual benefits available.

❖ **Incentives for early fulfilment of export obligation** – In case where Authorisation holder has fulfilled 75% or more of specific export obligation and 100% of Average Export Obligation till date, if any, in half or less than half the original export obligation period specified, remaining export obligation shall be condoned and the Authorisation redeemed.

❖ **Reduced EO for green technology products** - For exporters of Green Technology Products, Specific EO shall be 75% of EO . There shall be no change in average EO imposed, if any. The list of Green Technology Products is given in HBP.

❖ **Reduced EO for North East Region and Jammu and Kashmir** - For units located in Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura and Jammu and Kashmir, specific EO shall be 25% of the EO. There shall be no change in average EO imposed, if any, as stipulated in HBP.



# Export Promotion Capital Goods Scheme (EPCG)

## ❖ **Post Export EPCG Duty Credit Scrip(s)**

- Under this scheme, capital goods are imported on full payment of applicable duties in cash. Later, basic customs duty paid on Capital Goods is remitted in the form of freely transferable duty credit scrip(s) [similar to the Reward schemes discussed earlier]
- Salient features of the schemes are as follows –
  - Specific EO shall be 85% of the applicable specific EO stipulated under EPCG scheme. Average EO remains unchanged.
  - Duty remission shall be in proportion to the EO fulfilled.
  - These Duty Credit Scrip(s) can be utilized in the similar manner as the scrips issued under reward schemes can be utilized.

## ❖ **Indigenous Sourcing of Capital Goods and benefits to Domestic Supplier** – A person holding an EPCG authorization may source capital goods from a domestic manufacturer. Such domestic manufacturer shall be eligible for deemed export benefits under FTP and as may be provided under GST Rules under the category of deemed exports. Such domestic sourcing shall also be permitted from EOUs and these supplies shall be counted for purpose of fulfilment of positive NFE by said EOU.

# Export Promotion Capital Goods Scheme (EPCG)

**Illustration** – XR Pvt. Ltd., a manufacturer, wants to import capital goods in CKD condition from a foreign country and assemble the same in India. The import of the capital goods will be notified Project Imports. The final products of XR Pvt Ltd. Would be supplied to SEZ. XP Pvt. Ltd. Wishes to sell the capital goods as soon as the production starts. Can XR Pvt. Ltd. Avail the benefit of EPCG Scheme for importing the intended capital goods.

- ❖ **Ans** – EPCG permits import of capital goods at Zero custom duty or procure them indigenously without payment of duty by exporter. Capital Goods can be imported in CKD/SKD to be assembled in India. The authorization holder can either procure pre-production, production or post-production capital goods. An EPCG Authorisation can also be issued for import of capital goods under Scheme for Project Imports notified by CBIC.
- ❖ In return exporter is under obligation to fulfill export obligation. Exports to SEZ unit/developer/co-developer will be considered for discharge of export obligation of EPCG Authorisation, irrespective of currency.
- ❖ Export obligation for such EPCG Authorisation would be 6 times of duty saved. However, import of capital goods is subject to 'Actual User' condition till export obligation is completed. After export obligation is completed, capital goods can be sold or transferred.
- ❖ Therefore, based on the above discussion, XR Pvt Ltd can import the capital goods under EPCG Scheme. However, it has to make sure that it does not sell the capital goods till the export obligation is completed.

# Export Promotion Capital Goods Scheme (EPCG)

**Illustration** - Determine Export Obligation of Mr. Kapil, an exporter, who has purchased following capital goods under EPCG scheme.

- Import of Capital Goods 'P': Duty payable was Rs. 5,00,000 (but out of this, only IGST u/s 3(7) of Rs. 1,00,000 was paid in cash and no ITC of such IGST was taken);
- Import of Another Capital Goods 'Q' : Duty payable was Rs. 10,00,000 (but out of this, only IGST u/s 3(7) of Rs. 2,00,000 was paid in cash and ITC of such IGST was taken);
- Import of Another Capital Goods 'R' : Total duty was Rs. 6,00,000 (no duty was paid including IGST u/s 3(7) Rs. 75,000 availing benefit of scheme);
- Domestic Purchase of Capital Goods 'S' : Notional customs duties payable (considering it as deemed import) were Rs. 4,00,000.

**Answer** - Computation of Export Obligation is as follows :

Capital Goods	Duty Saved (will exclude CVD only if it is paid in cash and credit is not taken)	Factor	EO
P	Rs. 500,000 – Rs. 100,000 = Rs. 400,000	6	24,00,000
Q	Rs. 10,00,000	6	60,00,000
R	Rs. 6,00,000	6	36,00,000
S (factor is 25% less)	Notional Customs Duties i.e., Rs. 4,00,000	4.5	18,00,000
	Total Export Obligation		1,38,00,000

# Export Promotion Capital Goods Scheme (EPCG)

**Illustration** - A star export house wishes to import goods which are exempt from duty under Foreign Trade Policy (FTP), subject to fulfillment of export obligation. However, Customs Notification giving effect to the FTP is yet to be issued. Can the export house import the goods claiming exemption from duty under FTP in the absence of Customs Notification?

**Ans -**

No. The exemptions extended by Foreign Trade Policy can be taken only when the exemption notification is issued under the relevant tax laws. The provisions of FTP cannot override tax laws.

# EOU, EHTP, STP & BTP Schemes

- ❖ Units under Export Oriented Unit (EOU) Scheme, Electronics Hardware Technology Park (EHTP) Scheme, Software Technology Park (STP) Scheme or Bio-Technology Park (BTP) Scheme:
  - **Export their entire production of goods and services** (except permissible sales in DTA)
  - **Can import inputs and capital goods without payment of customs duty**
- ❖ **Eligibility**
  - Scheme for manufacture of goods, including repair, re-making, reconditioning, re-engineering, rendering of services, development of software, agriculture including agroprocessing, aquaculture, animal husbandry, biotechnology, floriculture, horticulture, pisciculture, viticulture, poultry and sericulture.
  - Trading units are not covered under these schemes.
  - Only projects having a minimum investment of ₹ 1 crore in plant and machinery shall be considered for establishment as EOUs. However, this shall not apply to units in EHTP/STP/BTP, EOUs in Handicrafts/Agriculture/Floriculture/Aquaculture/Animal Husbandry/Information Technological Services, Brass Hardware and Handmade jewellery sectors. Board of Approvals (BoA) may also allow establishment of EOUs with a lower investment criteria.

STP/EHTP/BTP schemes are similar to EOU schemes and provisions are more/less identical. EOU scheme is administered by Ministry of Commerce and Industry, while STP/EHTP/BTP schemes are administered by their respective administrative ministries. Software Technology Park (STP) is set up for development of software exports. Electronic Hardware Technology Park (EHTP) are for export of electronics, hardware and software. STP/EHTP Scheme is administered by Ministry of Information Technology. Bio Technology Park (BTP) is established on the recommendation of Department of Biotechnology.

# EOU, EHTP, STP & BTP Schemes

## ❖ **Net Foreign Exchange Earnings**

- EOU / EHTP / STP / BTP unit shall be a positive net foreign exchange earner except for sector specific provision of Appendix 6 B of Appendices & ANFs, where a higher value addition shall be required.
- **NFE Earnings shall be calculated** cumulatively in blocks of 5 years, starting from commencement of production.
- Whenever a unit is unable to achieve NFE due to
  - prohibition / restriction imposed on export of any product, the 5 year block period for calculation of NFE earnings may be suitably extended by BoA.
  - adverse market condition or any grounds of genuine hardship having adverse impact on functioning of the unit, the 5 year block period for calculation of NFE earnings may be extended by BOA for a period of upto 1 year, on a case to case basis.
- **Who Monitors NFE?:** Performance of EOU/EHTP/STP/BTP units shall be monitored by Units Approval Committee as per prescribed guidelines.
- **Which supplies to DTA can be counted for positive NFE?:**
  - (a) Supplies effected in DTA to holders of Advance Authorisation / Advance Authorisation for annual requirement / DFIA under duty exemption / remission scheme / EPCG scheme. However, printing sector EOUs (or any other sector that may be notified in HBP), can't supply goods, where basic customs duty and CVD is nil or exempted otherwise, to holders of Advance Authorisation / Advance Authorization for annual requirement.
  - (b) Supplies effected in DTA against foreign exchange remittance received from overseas.
  - (c) Supplies to other EOU / EHTP / STP / BTP / SEZ units, provided that such goods are permissible for procurement in terms of Relevant Para of FTP.

# EOU, EHTP, STP & BTP Schemes

- d) Supplies made to bonded warehouses set up under FTP and / or under section 65 of Customs Act and free trade and warehousing zones, where payment is received in foreign exchange.
- e) Supplies of goods and services to such organizations which are entitled for duty free import of such items in terms of general exemption notification issued by MoF, as may be provided in HBP.
- f) Supplies of Information Technology Agreement (ITA-1) items and notified zero duty telecom / electronics items.
- g) Supplies of items like tags, labels, printed bags, stickers, belts, buttons or hangers to DTA unit for export.
- h) Supply of LPG produced in an EOU refinery to Public Sector domestic oil companies for being supplied to household domestic consumers at subsidized prices under the Public Distribution System (PDS) Kerosene and Domestic LPG Subsidy Scheme, 2002, as notified by the Ministry of Petroleum and Natural Gas vide notification No. E-20029/18/2001-PP dated 28.01.2003, subject to specified conditions.

## ❖ Entitlements to Units Under EOU, EHTP, STP and BTP Schemes

- **Supplies from DTA to EOU / EHTP / STP / BTP units will be regarded as “deemed exports”** and DTA supplier shall be eligible for relevant entitlements for deemed exports under chapter 7 of FTP, besides discharge of export obligation, if any, on the supplier. The refund of GST paid on such supply would be available to the supplier subject to specified conditions and documentations under GST Law.
- In addition, EOU / EHTP / STP / BTP units shall be entitled to following:-
  - Imported goods are exempt from basic custom duty. Further, IGST and GST compensation cess is exempt upto ~~30-6-2022~~ **[Time limit of exemption removed by NN 37/2022 - Customs, dated 30.06.2022]**
  - Input Tax Credit of GST paid on inputs and capital goods.

# EOU, EHTP, STP & BTP Schemes

## ❖ Other Entitlements

- Units will be allowed to retain 100% of its export earnings in the EEFC account.
- Unit will not be required to furnish bank guarantee at the time of import or going for job work in DTA,
- 100% FDI investment permitted through automatic route similar to SEZ units.

## ❖ Export and Import of Goods

- **EXPORT** – Following exports are permitted
  - a) An EOU / EHTP / STP / BTP unit may export all kinds of goods and services except items that are prohibited in ITC (HS).
  - b) Export of Special Chemicals, Organisms, Materials, Equipment and Technologies (SCOMET) shall be subject to fulfilment of the conditions indicated in ITC (HS).
- **IMPORT** – Following imports are permitted
  - a) Procurement and supply of export promotion material like brochure / literature, pamphlets, hoardings, catalogues, posters etc up to a maximum value limit of 1.5% of FOB value of previous years exports shall also be allowed.



# EOU, EHTP, STP & BTP Schemes

- b) All types of goods, including capital goods, required for its activities, from DTA, (ii) bonded warehouses in DTA/ International exhibition held in India, subject to 'Actual User' condition, provided such goods are not prohibited items of import in the ITC (HS) subject following conditions:
  - i. The imports and/ or procurement from bonded warehouse in DTA/International exhibition held in India shall be without payment of basic customs duty. Such imports and/ or procurements shall be made without payment of integrated tax and GST compensation cess upto ~~01-07-2022~~ **(Time limit of exemption removed by NN 37/2022 - Customs, dated 30.06.2022)**.
  - ii. The procurement of goods covered under GST from DTA would be on payment of applicable GST and compensation cess. The refund of GST paid on such supply from DTA to EOU would be available to the supplier subject to such conditions and documentations as specified under GST law.
- c) Second hand capital goods, without any age limit, may also be imported duty free.
- d) Procurement and export of spares / components, upto 5% of FOB value of exports, may be allowed to same consignee / buyer of the export article, subject to the condition that it shall not count for NFE and direct tax benefits.

# EOU, EHTP, STP & BTP Schemes

## ❖ Leasing of Capital Goods

- An EOU / EHTP / STP / BTP unit may, on the basis of a firm contract between parties, source capital goods from a domestic / foreign leasing company without payment of customs / excise duty. In such a case, EOU / EHTP / STP / BTP unit and domestic / foreign leasing company shall jointly file documents to enable import / procurement of capital goods without payment of duty.
- An EOU / EHTP / BTP / STP unit may sell capital goods and lease back the same from a Non Banking Financial Company (NBFC), subject to the fulfillment of specified conditions.

## ❖ Inter-Unit Transfer

- Transfer of manufactured goods from one EOU / EHTP / STP / BTP unit to another EOU / EHTP / STP / BTP unit **is allowed on payment of applicable GST and compensation cess with prior intimation to concerned Development Commissioners** of the transferer and transferee units as well as concerned Customs authorities, following procedure of in-bond movement of goods. Transfer of manufactured goods shall also be allowed from EOU / EHTP / STP / BTP unit to a SEZ developer or unit as per procedure prescribed in SEZ Rules, 2006.
- Capital goods may be transferred or given on loan to other EOU / EHTP / STP / BTP / SEZ units, with prior intimation to concerned DC and Customs authorities on payment of applicable GST and Compensation cess. Such transferred goods may also be returned by the second unit to the original unit in case of rejection or for any reason without payment of duty.

## ❖ Sale of Unutilised Material

- In case an EOU / EHTP / STP / BTP unit is unable to utilize goods and services, imported or procured from DTA, it may be:
  - (i) Transferred to another EOU / EHTP / STP / BTP / SEZ unit; or
  - (ii) Disposed of in DTA with approval of Customs authorities on payment of applicable duties and submission of import authorization; or
  - (iii) Exported.Such transfer from EOU / EHTP / STP / BTP unit to another such unit would be treated as import for receiving unit.
- Capital goods and spares that have become obsolete / surplus, may either be exported, transferred to another EOU / EHTP / STP / BTP / SEZ unit or disposed of in DTA on payment of applicable duties. Benefit of depreciation, as applicable, will be available in case of disposal in DTA only when the unit has achieved positive NFE taking into consideration the depreciation allowed.
- No duty shall be payable in case capital goods, raw material, consumables, spares, goods manufactured, processed or packaged, and scrap / waste / remnants / rejects are destroyed within unit after intimation to Customs authorities or destroyed outside unit with permission of Customs authorities.
- Disposal of used packing material will be allowed on payment of duty on transaction value

# EOU, EHTP, STP & BTP Schemes

## ❖ **DTA Sale of Finished Products/Rejects/Waste/Scrap/Remnants and by-products**

- Entire production of EOU / EHTP / STP / BTP units shall be exported subject to following:
  - a) **Sale of goods in DTA** - Units, other than gems and jewellery units, may sell goods upto 50% of FOB value of exports, subject to fulfilment of positive NFE, on payment of applicable GST and compensation cess along with reversal of BCD availed as exemption, if any on the inputs utilized for the purpose of manufacturing of such finished goods.
    - **Note** – reversal of BCD shall be on the basis of SION published by DGFT or norms approved by Norms Committee of DGFT (when no SION is fixed)
    - No DTA sale shall be permissible in respect of motor cars, alcoholic liquors, books, tea (except instant tea), pepper & pepper products, marble and such other items as may be notified from time to time. Such DTA sale shall also not be permissible to units engaged in activities of packaging / labelling / segregation / refrigeration / compacting / micronisation / pulverization / granulation / conversion of monohydrate form of chemical to anhydrous form or vice-versa.
    - Such DTA sale shall also be subject to refund of deemed export benefits availed by the EOU/supplier as per FTP, on the goods used for manufacture of the goods cleared into the DTA.
    - An amount equal to Anti Dumping duty under section 9A of the Customs Tariff Act, 1975 leviable at the time of import, shall be payable on the goods used for the purpose of manufacture or processing of the goods cleared into DTA from the unit.
  - b) **Services Provided in DTA** - For services, including software units, sale in DTA in any mode, including on line data communication, shall also be permissible up to 50% of FOB value of exports and /or 50% of foreign exchange earned, where payment of such services is received in foreign exchange.

# EOU, EHTP, STP & BTP Schemes

- c) **Sale of rejects in DTA** – Rejects may be sold in DTA on payment of applicable GST and compensation cess along with reversal of basic customs duty availed as exemption on inputs on prior intimation to Customs Authorities. Sale of rejects upto 5% of FOB value of exports shall not be subject to achievement of NFE.
- d) **Sale of scrap/waste/remnants, arising out of production, in DTA** - Scrap / waste / remnants arising out of production process or in connection therewith may be sold in DTA, as per SION notified under Duty Exemption Scheme, on payment of concessional duties as applicable, within overall ceiling of 50% of FOB value of exports. Such sales of scrap / waste / remnants shall not be subject to achievement of positive NFE. Scrap / waste / remnants may also be exported.
  - There shall be no duties / taxes on scrap / waste / remnants, in case same are destroyed with permission of Customs authorities. However, the expression “no duties/taxes” shall not include applicable taxes and cess under the GST law
- e) **Sale of by-products in DTA** - By-products included in LoP may also be sold in DTA subject to achievement of positive NFE, on payment of applicable GST and compensation cess along with reversal of basic customs duty availed as exemption on inputs.
- f) Procurement of spares / components, up to 2% of the value of manufactured articles, cleared into DTA, during the preceding year, may be allowed for supply to the same consignee / buyer for the purpose of aftersale-service. The same can be cleared in DTA on payment of applicable GST and compensation cess along with reversal of basic customs duty availed as exemption on inputs.

# EOU, EHTP, STP & BTP Schemes

- ❖ **Export through other exporters** – An EOU/EHTP/STP/BTP unit may export goods manufactured/software developed by it through another exporter or any other EOU/EHTP/STP/SEZ unit subject to specified conditions.
- ❖ **Exit from EOU Scheme** – With approval of DC, and EOU may opt out of scheme. Such exit shall be subject to payment of applicable IGST/CGST/SGST/UTGST and compensation cess, if any, and industrial policy in force. If unit has not achieved obligations, it shall also be liable to penalty at the time of exit.
- ❖ **Conversion** – Existing DTA units may also apply for conversion into an EOU/EHTP/STP/BTP unit. Existing EHTP/STP units, who have applied for conversion/merger to EOU unit and vice-versa, can avail exemptions in duties and taxes as applicable. Applications for conversion into an EOU/EHTP/STP/BTP unit from existing DTA units, having an investment of ₹ 50 crores and above in plant and machinery or exporting ₹ 50 crores and above annually, shall be placed before BOA for a decision.

# Deemed Exports

- ❖ **Objective** To provide a level-playing field to domestic manufacturers in certain specified cases, as may be decided by the Government from time to time.
- ❖ **Deemed Exports** “Deemed Exports” refer to those transactions in which goods supplied do not leave country, and payment for such supplies is received either in Indian rupees or in free foreign exchange. Supply of goods as specified in FTP shall be regarded as “Deemed Exports” provided goods are manufactured in India.
- ❖ **Deemed exports broadly cover three areas –**
  - a) Supplies to domestic entities who can import their requirements duty free or at reduced rates of duty.
  - b) Supplies to projects/ purposes that involve international competitive bidding.
  - c) Supplies to infrastructure projects of national importance.
- ❖ **Categories of Supply of goods under following categories (a) to (c) by a manufacturer and under categories (a) to (e) by main / subcontractors shall be regarded as “Deemed Exports”**
  - ❖ **Supply by manufacturer:**
    - (a) Supply of goods against Advance Authorisation / Advance Authorisation for annual requirement / DFIA;
    - (b) Supply of goods to EOU / STP / EHTP / BTP;
    - (c) Supply of capital goods against EPCG Authorisation;

# Deemed Exports

## ❖ **Supply by main/sub-contractor(s) –**

- a) Supply of goods to projects financed by multilateral or bilateral Agencies / Funds as notified by Department of Economic Affairs (DEA), MoF, under International Competitive Bidding (ICB)
- b) Supply of goods to any project or for any purpose in respect of which the Ministry of Finance, by Notification No. 50/2017 –Customs dated 30-6-2017, as amended from time to time, permits import of such goods at zero customs duty subject to conditions specified in the above said Notification. Benefits of deemed exports shall be available only if the supply is made under procedure of ICB.
- c) Supply of goods required for setting up of any mega power project, against International Competitive Bidding (even if customs duty on imports made by such project is not zero). The ICB procedures should be followed. Supplier is eligible for benefits as specified. International Competitive Bidding (ICB) is not mandatory for mega power projects if requisite quantum of power has been tied up through tariff based competitive bidding or if project has been awarded through tariff based competitive bidding.
- d) Supply of goods to UN or international organisations for their official use or supplied to projects financed by them.
- e) Supply of goods to nuclear projects through competitive bidding (need not be international competitive bidding).

## ❖ **Benefits for Deemed Exports –**

- ❖ Deemed exports shall be eligible for any / all of following benefits in respect of manufacture and supply of goods, qualifying as deemed exports, subject to specified terms and conditions:
  - (a) Advance Authorisation / Advance Authorisation for annual requirement / DFIA.
  - (b) Deemed Export Drawback.



# Deemed Exports

## ❖ **Common Conditions for Deemed Export Benefits –**

- (i) Supplies shall be made directly to entities listed in the Para 7.02 i.e. categories of supplies discussed above. Third party supply shall not be eligible for benefits/exemption.
- (ii) In all cases, supplies shall be made directly to the designated Projects/Agencies/Units/ Advance Authorisation/ EPCG Authorisation holder. Subcontractors may, however, make supplies to main contractor instead of supplying directly to designated Projects/ Agencies. Payments in such cases shall be made to sub-contractor by main-contractor and not by project Authority.
- (iii) Supply of domestically manufactured goods by an Indian Sub-contractor to any Indian or foreign main contractor, directly at the designated project's/ Agency's site, shall also be eligible for deemed export benefit provided name of sub-contractor is indicated either originally or subsequently (but before the date of supply of such goods) in the main contract. In such cases payment shall be made directly to sub-contractor by the Project Authority.

# Penalties

- ❖ In case any exporter or importer in the country violates any provision of the FTP or for that matter any other law in force, like GST, Central Excise or Customs or Foreign Exchange, his IEC number can be cancelled by the office of DGFT and thereupon that exporter or importer would not be able to transact any business in export or import. The premises where any violation of the provisions of FTP has taken place or is expected to take place can be searched and the suspicious material seized.
- ❖ Violations would cover situations when import or export has been made by unauthorized persons who are not legally allowed to carry out import or export or when any person carries out or admits to carry out any import or export in contravention of the basic FTP.