



# **CHAPTER 39**

# ***FOREIGN TRADE POLICY***



## INTRODUCTION

The Foreign Trade Policy (FTP) 2023 is notified by Central Government, in exercise of powers conferred under Section 5 of the Foreign Trade (Development & Regulation) Act, 1992 (No. 22 of 1992) [FT (D&R) Act], as amended.

Section 5 of FT (D&R) Act, 1992 empowers Central Government to formulate and announce by notification in Official gazette, the Foreign Trade Policy (FTP) and also amend the same by issuing a notification. In India, the Union Ministry of Commerce and Industry governs the affairs relating to the promotion and regulation of foreign trade.

Section 3 of FT (D&R) Act, 1992 empowers Central Government to the make provisions for development and regulation of foreign trade.

### Duration of FTP:

The Foreign Trade Policy (FTP) 2023 incorporating provisions relating to export and import of goods and services, shall come into force with effect from 1<sup>st</sup> April, 2023 and shall continue to be in operation unless otherwise specified or amended. All exports and imports made up to 31.03.2023 shall, accordingly, be governed by the relevant FTP, unless otherwise specified.

It means unlike of earlier FTP, there is no end date to the new policy.

Any License/ Authorisation/ Certificate/ Scrip/ instrument bestowing financial or fiscal benefit issued before commencement of FTP 2023 shall continue to be valid for the purpose and duration for which it was issued, unless otherwise stipulated.

The Foreign Trade Policy is closely knit with the Customs, GST Laws and Excise/ state laws of India. However, the policy provisions per-se do not override tax laws.

### Authorization:

It means “permission for import or export of goods and services” in terms of FT (D&R) Act, 1992. DGFT issues authorization for import or export. Decision of DGFT is final and binding in respect of any authorization issued under the FTP.

### Scheme of the Act

- The Act authorizes Central Govt. to issue orders to make provisions for development and regulation of foreign trade
- To prohibit, restrict or regulate import and export
- The central Govt. is also authorized to formulate and announce F.T.P. by a notification in the Official Gazette.
- The Central Govt. also has been given power to appoint the Director General of Foreign Trade DGFT.

The DGFT is to advise the Central Govt. in the formulation of F.T.P. and he is also responsible for carrying out the policy. It may be noted that DGFT acts under the control of Ministry of Commerce & Industry.



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### Administration of FTP

- 1) The Act authorises the Ministry to declare the Policy on foreign trade
- 2) The Ministry of Commerce & Industry announces the policy
- 3) The DGFT (Director General of Foreign Trade) assists in formulating the policy and also implements the policy
- 4) The CBIC (Central Board of Indirect Taxes and Customs), RBI (Reserve Bank of India) and State GST Departments are also involved in administration of FTP

### The Director General of Foreign Trade (DGFT):

The Director General of Foreign Trade (DGFT) advises Central Government in formulating policy and exercise specified powers under the Foreign Trade (Development and Regulation) Act, 1992. DGFT issues public notices, policy circulars, notifications or decisions from time to time.

In order to facilitate international trade, DGFT consults various Export Promotion Councils as well as Trade and Industry bodies from time to time. DGFT is to work in close coordination with other agencies like CBIC, RBI etc.

DGFT issues authorisation for import/export. It also grants Importer Exporter Code (IEC) Number to importers and Exporter. Import and Export without IEC number is not permitted, unless specifically exempted.

The decision of DGFT shall be final and binding on all matters relating to interpretation of Policy, or provision in Handbook of Procedures, Appendices and Aayat Niryat Forms or classification of any item for import / export in the ITC (HS).

A Policy Interpretation Committee (PIC) may be constituted to aid and advice DGFT. The composition of the PIC would be as follows:

- (i) DGFT: Chairman
- (ii) All Additional DGFTs in Headquarters: Members
- (iii) All Joint DGFTs in Headquarters looking after Policy matters: Members
- (iv) Joint DGFT (PRC/PIC): Member Secretary
- (v) Any other person / representative of the concerned Ministry / Department, to be co-opted by the Chairman.

While granting exemption from Policy/Procedures, DGFT may impose such conditions as he may deem fit after consulting the Committees as under:

Description	Committee
Fixation/modification of product norms under all schemes	Norms Committees
Nexus with Capital Goods (CG) and benefits under EPCG Schemes	EPCG Committees
All other issues	Policy Relaxation Committee

**TRADE FACILITATION AND EASE OF DOING BUSINESS:****1. National Committee on Trade Facilitation (NCTF):**

India has ratified the World Trade Organizations Trade Facilitation Agreement (TFA) in April 2016. To facilitate coordination and implementation of the TFA provisions, an inter-ministerial body i.e. National Committee on Trade Facilitation (NCTF) has been constituted. National Trade Facilitation Action Plan aims to achieve: -

- (i) Improvement in Ease of Doing Business through reduction in transaction cost and time
- (ii) Reduction in cargo release time
- (iii) A paperless regulatory environment
- (iv) A transparent and predictable legal regime
- (v) Improved investment climate through better infrastructure

**2. Free passage of Export Consignment:**

Consignments of items meant for exports shall not be withheld/ delayed for any reason by any agency of Central/ State Government. In case of any doubt, authorities concerned may ask for an undertaking from exporter and release such consignment.

**3. Niryat Bandhu - Hand Holding Scheme for new export/ import entrepreneurs:**

DGFT is implementing the Niryat Bandhu Scheme for mentoring new and potential exporter on the intricacies of foreign trade through counselling, training and outreach programmes including the 'Districts as Export Hubs' initiative with 'industry partners', 'knowledge partners' and other stakeholders to create vibrant District-Product-Market relevant knowledge ecosystem.

**4. DGFT Online Customer Portal:**

Export Import related information including Acts, Rules, Policy and Procedures etc. are available online at DGFT portal <https://dgft.gov.in/>.

**5. Issue of e-IEC (Electronic-Importer Exporter Code):**

Importer Exporter Code (IEC) is mandatory for export/ import from/to India as detailed in paragraph 2.05 of this Policy. DGFT issues Importer Exporter Code in electronic form (e-IEC). For issuance of e-IEC, application can be made on DGFT website ([https://dgft.gov.in](https://dgft.gov.in/)).

**6. Online facility for e-RCMC/RC Related Processes:**

DGFT has created a common digital platform for application of issuance, renewal, amendment and related processes pertaining to Registration Cum Membership Certificate (RCMC)/ Registration Certificate (RC) issued by Registering Authorities in electronic form as per Chapter 2 of HBP.

**7. Online facility for e- Certificate of Origin**



### 8. Online facility to file Quality Control and Trade Disputes (QCTD)

In case of import/export, owner is liable to state the value, quality and description of the goods/services/technology to the best of his knowledge and belief, in the Bill of Entry or the Shipping Bill or any other prescribed document. In case of export, certification regarding quality and specification of the goods/ services/technology being in accordance with the terms of export contract is also required. Necessary action is prescribed against the erring exporters/importers under the FT(D&R) Act, as amended and under Foreign Trade (Regulation) Rules, 1993.

Further, a mechanism has been laid down to resolve complaints/ trade disputes between foreign buyer/supplier and Indian exporter/importer in respect of quality of goods/services/technology supplied or unethical commercial dealings including non-supply/ partial supply/ wrong supply/ non- payment; non- adherence to delivery schedules, etc.

Committee on Quality complaints and Trade Disputes (CQCTD) will be responsible for enquiring and investigating into all quality related complaints and other trade related complaints falling under the jurisdiction of the respective RAs. It will take prompt and effective steps to redress and resolve the grievances of the importers/ exporters and overseas buyers/ suppliers

### 9. Electronic record of export proceeds through e-BRC & EDPMS:

- (a) e-BRC (Electronic Bank Realisation Certificate) has enabled DGFT to capture details of realisation of export proceeds directly from the Banks through secured electronic mode. This has facilitated the implementation of various export promotion schemes without any physical interface with the stake holders.
- (b) RBI has also developed a comprehensive IT-based system called Export Data Processing and Monitoring System (EDPMS) for monitoring of export of goods and software and facilitating AD banks to report various returns through a single platform. RBI EDPMS data available in DGFT IT System can also be used by exporters on DGFT portal.

### 10. 24 X 7 Helpdesk Facility

### 11. Authorised Economic Operator (AEO) Programme

Authorised Economic Operator (AEO) programme' has been developed by Indian Customs to enable business involved in the international trade to reap the following benefits:

- (i) Secure supply chain from point of export to import;
- (ii) Ability to demonstrate compliance with security standards when contracting to supply overseas importers /exporters;
- (iii) Enhanced border clearance privileges in Mutual Recognition Agreement (MRA) partner countries;
- (iv) Minimal disruption to flow of cargo after a security related disruption;
- (v) Reduction in dwell time and related costs; and
- (vi) Customs advice / assistance if trade faces unexpected issues with Customs of countries with which India have MRA.

**12. Towns of Export Excellence (TEE)**

Selected towns which are contributing handsomely to India's exports by producing goods of specified amount may be granted recognition as TEE. They will be provided targeted support and infrastructure development to maximize their export competitiveness and enable them to move up the value chain and also to tap new markets by granting specified privileges to them.

**13. STATUS HOLDERS SCHEME**

Under this, exporters are given star status based on their export performance in dollar terms. These star status holders enjoy certain privileges over others.

All exporters of goods, services and technology having an import-export code (IEC) number shall be eligible for recognition as a status holder

An applicant shall be categorized as status holder upon achieving export performance during current and previous two financial years, as indicated below:

Status Category	Export Performance FOB/ FOR (as converted) value (in US \$ Million) during CY and preceding 3 FYs
One Star Export House	3
Two Star Export House	15
Three Star Export House	50
Four Star Export House	200
Five Star Export House	800

**Important points:**

- (a) FOR Value (i.e. deemed export) of exports in India Rupees shall be converted in US\$ at the exchange rate notified by CBIC, as on 1<sup>st</sup> April of each Financial Year.
- (b) For granting status, export performance is necessary in ALL 3 preceding PYs.
- (c) Grant of double weightage while calculating export performance is given to exporters who seeks One Star Export House status under the following categories:
  - (i) Micro, Small & Medium Enterprises (MSME)
  - (ii) Manufacturing units having ISO/BIS
  - (iii) Units located in North Eastern States and Jammu & Kashmir
  - (iv) Units located in Agri Export Zones.A shipment can get double weightage only once in any one of above categories. It means a shipment can be included in one of categories indicated above only once.
- (d) Exports made on re-export basis shall not be counted for recognition.
- (e) Export of items under authorization, including Special Chemicals, Organisms, Materials, Equipment and Technologies (SCOMET) items, would be included for calculation of export performance.
- (f) Status Certificates issued under this FTP shall be valid for a period of 5 years from the date on which application for recognition was filed.



### Benefits to Status holders:

- (i) Authorisation and Customs Clearances for both imports and exports may be granted on self-declaration basis;
- (ii) Fixation of Input Output Norms (SION) on priority by the Norms Committee i.e. within 60 days.
- (iii) Exemption from compulsory negotiation of documents through banks. The remittance receipts, however, would continue to be received through banking channels by way of e-BRC by DGFT.
- (iv) Exemption from furnishing of Bank Guarantee in Schemes under FTP.
- (v) Two Star Export Houses and above are permitted to establish export warehouses.
- (vi) Three Star and above Export House shall be entitled to get benefit of Accredited Clients Programme (ACP) as per the guidelines of CBEC.
- (vii) Status holders shall be entitled to export freely exportable items on free of cost basis (excluding Gems and jewellery, Articles of Gold and precious metals) for export promotion subject to an annual limit of **₹ 1 crore 2% of average annual export realization during preceding 3 licensing years.**

The free of cost supplies made under provisions of free of cost basis shall not be entitled to Duty Drawback or any other export incentive under any export promotion scheme.

- (viii) Manufacturers who are also status holders (Three Star/Four Star/Five Star) will be enabled to self-certify their manufactured goods (as per their Industrial Entrepreneurs Memorandum (IEM) / Industrial License (IL) /Letter of Intent (LOI)) as originating from India with a view to qualify for preferential treatment under specified agreements.
- (ix) The status holders would be entitled to preferential treatment and priority in handling of their consignments by the concerned agencies.

### Example 1:

From the following identify correct category for grant of status certificate to X Ltd:

Type of Exports in US \$	Current Year in (From April - Oct)	Previous Year 1	Previous Year 2
Exports of goods without Weightage US\$	1,25,000	11,00,000	5,80,000
Exports of services without Weightage US\$	1,55,000	4,20,000	3,95,000
FOR value for Deemed Exports (₹)	50,00,000	1,25,00,000	1,20,00,000

Exchange rate notified by the CBIC as on 1st April 2013, 1st April 2014 and 1st April 2015 is ₹ 55/USD, ₹ 58/USD and ₹ 60/USD respectively.

**Example 2:**

X Pvt. Ltd., being a by Micro, small & medium enterprises (MSME) manufactured and exported packing material to USA. Other information is as follows:

Category of Exports	FOB value US\$ in the current year (April to June)	FOB value US\$ in the Previous Year 1	FOB value US\$ in the Previous Year 2
Export of goods as MSME	50,000	20,00,000	Nil
Manufacturing units having ISO/ BIS	Nil	Nil	5,00,000

Find whether X Pvt. Ltd., is eligible for double weightage? If yes identify its export status?

**Example 3:**

X Pvt. Ltd., (One Star Export House) wanted to export general goods (i.e. export freely without any restriction or prohibition) worth ₹ 25 lakh on free of cost basis for export promotion to USA.

Particulars	Current year (April to Oct)	Previous Year 1	Previous Year 2	Previous Year 3
Annual Export realization (INR)	9,11,25,000	1,11,00,000	10,80,00,000	8,15,80,000

Whether X Pvt. Ltd., can export goods on free of cost basis, if so what amount. Advise.

**INDIAN TRADE CLASSIFICATION (HARMONIZED SYSTEM)**

ITC stands for Indian Trade Classification and H.S. stands for harmonized system. In other words, it is India Trade Classification (based on) harmonized system of coding adopted in India for goods imported or exported through customs.

Customs department uses the coding system for goods. In India we use 8-digit system of coding for goods. All goods for international trade are given section wise. There are 21 sections.

For example, Section 1 contains Animals & Animal products; Section 2 vegetable products. These sections are further divided into chapters. These chapters contain goods with H.S. codes, description, export/import policy for the goods and type of restriction.

Separate schedules are given for imported and export goods. Schedule 1 contains the lists of imported goods and schedule 2 has export goods.



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Status of goods is denoted by specific alphabet in the schedules. As per the policy of the government, goods are categorized as follows

- 1) **Free Goods:** Alphabet 'F' is used for this. These goods are allowed to be imported/ exported as the case may be freely without any license or authorization from DGFT.
- 2) **Prohibited Goods:** (P is used) these cannot be imported at all.
- 3) **Restricted Goods:** (R): These 'R' category goods can be imported only with license / authorization.
- 4) **State Trading Goods (S or STE):** These goods can be exported or imported only by or through state trading enterprises. (STEs) such as MMTC/ Indian Oil Corporation etc. If an importer or exporter still wants to deal directly, he has to get permission/authorization from DGFT.

**State Trading Enterprises (STEs)** are governmental and non-governmental enterprises, including marketing boards, which deal with goods for export and /or import. Any good, import or export of which is governed through exclusive or special privilege granted to State Trading Enterprise (STE), may be imported or exported by the concerned STE as per conditions specified in ITC (HS). Some of the STEs are

- ✓ Food Corporation of India,
- ✓ Oil and Natural Gas Corporation Ltd,
- ✓ National Fertilizers Limited,
- ✓ Indian Rare Earth Ltd.,
- ✓ National Dairy Development Board,
- ✓ National Agricultural Cooperative Marketing Federation of India (NAFED),
- ✓ State Cooperative Marketing Federation, etc.

### IMPORTER-EXPORTER CODE (IEC)

An IEC is a 10-character alpha-numeric number allotted to an entity (firm/company/LLP etc.) and is mandatory for undertaking any export/import activities. With a view to maintain the unique identity of an entity, consequent upon introduction / implementation of GST, IEC shall be same as Permanent Account Number (PAN) and shall be separately issued by DGFT based on an online application. IEC details have to be electronically updated every year, even if there are no changes; failing which it will be de-activated till updation.

### Mandatory documents for export/ import of goods from/into India:

For Export of goods from India	For Import of goods into India
Bill of Lading/ Airway Bill/ Lorry Receipt/ Railway Receipt/ Postal Receipt	Bill of Lading/Airway Bill/ Lorry Receipt/ Railway Receipt/ Postal Receipt in form CN-22 or CN 23 as the case may be.
Commercial Invoice cum Packing List*	Commercial Invoice cum Packing List**
Shipping Bill/Bill of Export/ Postal Bill of Export	Bill of Entry

Note: \*(i) As per CBIC Circulars issued under the Customs Act, 1962

(ii) \*\* Separate Commercial Invoice and Packing List would also be accepted.

**Penal action and placing of an entity in Denied Entity List (DEL)****(a) Penal action**

In following situations, a person shall be liable to penal action under FT (D&R) Act and rules and orders made thereunder, FTP and any other law for time being in force:

(i) authorization holder:

- violates any condition of such Authorization
- fails to fulfill export obligation
- fails to deposit the requisite amount within the period specified in demand notice

(ii) any information/particulars furnished by applicant subsequently found untrue/incorrect

**(b) Denied Entity List (DEL)**

A firm may be placed under DEL, by the concerned Regional Authority (RA) of the DGFT. In such a case:

(i) firm may be refused grant or renewal of a licence/authorization /certificate/scrip/any instrument bestowing financial/fiscal benefits, and

(ii) all new licences, authorizations, scrips, certificates, instruments etc. will be blocked from printing/issue/renewal.

DEL orders may be placed in abeyance, for reasons to be recorded in writing by the concerned RA. DEL order can be placed in abeyance, for a period not more than 60 days at a time.

A firm's name can be removed from DEL, by the concerned RA for reasons if the firm completes Export Obligation/ pays penalty/ fulfils requirement of demand notice(s) issued by the RA/submits documents required by the RA.

**BOARD OF TRADE (BOT)**

Board of Trade has been constituted to advise Government on Policy measures like:

- Improve exports,
- Review export performance,
- Review policy and procedures for import and exports and
- Examine issues relevant for promotion of India's foreign trade.

Commerce and Industry Minister will be the Chairman of the BOT. Government shall also be nominated up to 25 persons. Board of Trade will meet at least once every quarter

**IMPORT OF SAMPLES**

Authorization for import of samples is required only in case of vegetable seeds, bees and new drugs. Samples of tea up to ₹ 2,000 (CIF) per consignment will be allowed without authorization. All exporters without duty can import samples up to ₹ 3,00,000.



### IMPORT OF GIFTS

Import of goods, including those purchased from e-commerce portals, through post or courier, where Customs clearance is sought as gifts, is prohibited **except** for life saving drugs/ medicines and Rakhi (but not gifts related to Rakhi).

Explanation:

1. Rakhi (but not gifts related to Rakhi) will be covered under Section 25(6) of Customs Act, 1962 that reads that “no duty shall be collected if the amount of duty leviable is equal to or less than Rs. 100/-”

2. Import of goods as gifts with payment of full applicable duties is allowed.

### IMPORT THROUGH PASSENGER BAGGAGE:

- Bona-fide household goods and personal effects
- Samples of such items that are otherwise freely importable under FTP may also be imported as part of passenger baggage without an Authorisation subject to Baggage Rules.
- Exporters coming from abroad are also allowed to import drawings, patterns, labels, price tags, buttons, belts, trimming and embellishments required for export, as part of their passenger baggage, without authorisation subject to value limit as laid down in FTP or Customs.

### RE-IMPORT OF GOODS REPAIRED ABROAD:

Capital goods, equipment, components, parts and accessories, whether imported or indigenous, except those restricted under ITC (HS) may be sent abroad for repairs, testing, quality improvement or upgradation or standardization of technology and re-imported without an Authorisation.

### IMPORT OF GOODS USED IN PROJECTS ABROAD:

Project contractors after completion of projects abroad, may import without an Authorisation, goods including capital goods used in the project, provided they have been used for at least one year.

### IMPORT OF PROTOTYPES:

Import of new / second hand prototypes / second hand samples may be allowed on payment of duty without an Authorisation to an Actual User (industrial) engaged in production of or having industrial license / letter of intent for research in item for which prototype is sought for product development or research, as the case may be, upon a self- declaration to that effect, to the satisfaction of Customs authorities.

### IMPORT OF METALLIC WASTE AND SCRAP:

Import of any form of metallic waste, scrap will be subject to the condition that it will not contain hazardous, toxic waste, radioactive contaminated waste/scrap containing radioactive material, any types of arms, ammunition, mines, shells, live or used cartridge or any other explosive material in any form either used or otherwise.

**REMOVAL OF SCRAP/WASTE FROM SEZ:**

A SEZ unit/Developer/ Co-developer may be allowed to dispose of in DTA any waste or scrap, including any form of metallic waste and scrap, generated during manufacturing or processing activity, without an Authorisation, on payment of applicable Customs Duty.

**PROVISIONS RELATING TO EXPORT OF GOODS:****FREE EXPORTS:**

All goods may be exported without any restriction except to the extent that such exports are regulated by ITC(HS) or any other provision of FTP or any other law for the time being in force. DGFT may, however, specify through a Public Notice such terms and conditions according to which any goods, not included in ITC(HS), may be exported without an Authorisation.

**BENEFITS FOR SUPPORTING MANUFACTURERS:**

Supporting manufacturer is one who manufactures goods/products or any part/ accessories/ components of a good/ product for a merchant exporter/ manufacturer exporter under a specific authorisation. For any benefit to accrue to the supporting manufacturer, the names of both supporting manufacturer as well as the merchant exporter must figure in the concerned export documents, especially in tax invoice / shipping bill / bill of export/ airway bill.

**THIRD PARTY EXPORTS:**

Third party exports are allowed under FTP. Third-party exports means exports made by an exporter/manufacturer on behalf of another exporter(s). In such cases, export documents such as shipping bills shall indicate names of both manufacturer exporter/manufacturer and third- party exporter(s). Bank Realisation Certificate (BRC), Self-Declaration Form (SDF), export order and invoice should be in the name of third-party exporter.

**Question:** LM Corporation, a merchant exporter, procured order of goods from a customer in USA. It approached ST Corporation, a manufacturer, for execution of the said order. The shipping bills relating to the consignment bear the name of LM Corporation. Bank Realization Certificate, GR declaration, export order and invoice are also in the name of LM Corporation. Comment whether ST Corporation would be deemed as the exporter under FTP.

**Answer:** The given scenario is a case of third-party exports. Third-party exports means exports made by an exporter or manufacturer on behalf of another exporter(s). The conditions for being allowed as third-party exports under FTP are:

- (i) Export documents such as shipping bills shall indicate name of both manufacturing exporter/ manufacturer and third-party exporter(s).
- (ii) BRC, GR declaration, export order and invoice should be in the name of third-party exporter.



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In the above case, though BRC, GR declaration, export order and invoice are in the name of LM Corporation (third party exporter), the shipping bill does not have the name of ST Corporation (manufacturer).

**Therefore, ST Corporation will not be treated as the exporter in this case.**

### EXPORT OF GIFTS

Goods, including edible items, of value not exceeding ₹ 5,00,000 in a licensing year, may be exported as a gift. However, items mentioned as restricted for exports in ITC (HS) shall not be exported as a gift, without an Authorization.

### EXPORT OF SAMPLES

Export of bona fide trade and technical samples of freely exportable items shall be allowed without any limit. In case of restricted items, application should be made to DGFT.

### Export of Passenger Baggage:

Bona-fide personal baggage may be exported either along with passenger or, if unaccompanied, within 1 year before or after passenger's departure from India. However, items mentioned as restricted for exports in ITC(HS) shall not be exported as a gift, without an Authorisation. Samples that freely exportable can be exported as part of passenger baggage. Authorisation will be required for restricted items.

Samples of freely exportable items may be exported as part of passenger baggage without an authorisation.

### Import for Export:

- Goods that are freely importable as well as freely exportable can be imported and then exported in same or substantially the same form, without any authorisation.
- Goods including capital goods (both new and second hand) can be imported under customs bond and then cleared for export against freely convertible foreign currency provided they are freely exportable. This includes goods that are 'restricted' for import.
- Capital goods that are freely importable and freely exportable can be imported for export upon execution of LUT/BG with the customs authorities.
- Notwithstanding the above, goods of other than Indian origin that are 'restricted' for export (other than 'prohibited' or SCOMET items) but 'free' for import can be imported for exports in same or substantially the same form. Such goods shall be kept in bonded warehouse and re-exported from there subject to provisions of section 69 of the Customs Act, 1962.
- Goods that are imported against payment in freely convertible foreign currency can be exported only against payment in freely convertible foreign currency, unless otherwise notified.



### **Payments and Receipts on Imports / Exports:**

- All export contracts and invoices shall be denominated either in freely convertible currency or Indian rupees but export proceeds shall be realized in freely convertible currency.
- However, export proceeds against specific exports may also be realized in rupees, provided it is through a freely convertible Vostro account of a non-resident bank situated in any country other than a member country of Asian Clearing Union (ACU) or Nepal or Bhutan.
- Non-realisation of export proceeds: If an exporter fails to realize export proceeds within time specified by RBI, he shall be liable to return all benefits/ incentives availed against such exports and shall be liable to penal action under FT (D&R) Act and the FTP. However, if such nonrealization is for reasons beyond his control, he may approach RBI for writing off the unrealized amount.
- Export Credit Agencies (ECAs): ECAs provide financial support to exporters. They support exports by insurance, guarantee and also direct lending. For instance, Export Credit Guarantee Corporation of India Ltd. (ECGC), Exim Bank, etc.

### **Export Promotion Councils:**

Export Promotion Councils (EPCs) are organizations of exporters, set up to promote and develop Indian exports. Each Council is responsible for promotion of a particular group of products/ projects/services. EPCs are also eligible to function as Registering Authorities to issue Registration-cum-Membership Certificate (RCMC). RCMC is required to be furnished by any person, applying for an Authorisation to import/ export under the FTP (except "Restricted" items) or applying for any other benefit or concession under FTP.

### **Approved Exporter Scheme for Self- Certification of Certificate of Origin:**

Approved Exporters will be entitled to self-certify their manufactured goods as originating from India with a view to qualifying for preferential treatment under different Preferential Trade Agreements [PTAs], Free Trade Agreements [FTAs], Comprehensive Economic Cooperation Agreements [CECA] and Comprehensive Economic Partnerships Agreements [CEPA] which are in operation. Self-certification will be permitted only for the goods that are manufactured as per the IEM/IL/LOI issued to manufacturers.



## EXPORT PROMOTION SCHEMES

<b>Duty Exemption Schemes</b>	Advance Authorisation Scheme (AAS) Duty Free Import Authorisation Scheme (DFIA)
<b>Duty Remission Schemes</b>	Duty Drawback Scheme Duty Remission Schemes under GST
<b>Reward Schemes</b>	Merchandise Exports from India Scheme (MEIS) Service Exports from India Scheme (SEIS) Status Holders
<b>EPCG Schemes</b>	Export Promotion Capital Goods Scheme
<b>EOU, EHTP, STP &amp; BTP Schemes</b>	
<b>Deemed Exports</b>	
<b>SEZ Schemes</b>	

### Advance Authorisation Scheme

<b>Meaning</b>	Inputs, which are used in the export product, can be imported without payment of BCD, Anti-Dumping Duty & Safeguard duty. IGST will have to be paid on imports. IGST paid on import will be refunded on making exports
<b>Validity</b>	12 months from the date of issue of such Authorisation
<b>Export Obligation</b>	18 months from the date of issue of Authorisation
<b>Items not eligible for Import</b>	Items reserved for imports by STEs cannot be imported against Advance Authorisation
<b>Items eligible (Actual user condition for Advance Authorisation)</b>	Inputs which are physically incorporated in export product. Mandatory spare parts up to 10% of CIF value of Authorisation to export along with finished goods. Specified Spices only when used for crushing/sterilization/manufacture of oils and not simply cleaning, grading.
<b>Who are eligible</b>	Manufacturer exporter, Merchant exporter, deemed exporter. Supplied made to UNO or SEZ'S Supply of 'stores' on board of foreign going vessel/aircraft provided there is specific SION in respect of items supplied.
<b>Annual Advance Authorization</b>	CIF Value of Import = Up to 300% of FOB value of physical exports in preceding financial and or FOR value of deemed exports in preceding year or ₹ 1 Crore, whichever is higher
<b>Value addition</b>	15% (in case of Tea product 50% & spices 25%)
<b>How is the value addition computed</b>	$VA = \frac{(A-B)}{B} \times 100$ Where A = FOB Value of exports; B = CIF value of Imported goods (including value of goods imported free of cost from a foreigner)



<b>What is export obligation under the scheme?</b>	<p>2. The export goods should be eligible</p> <p>3. They should be exported, within the stipulated time (normally 18 months from the date of authorization)</p> <p>4. Prohibited goods are not eligible</p> <p>5. Exports may be actual exports, deemed exports and supply of intermediate goods to another AA holder. Actual exports include supplies to SEZ also</p>
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**Other Points:**

- (i) Exporters having past export performance (in at least preceding two financial years) shall be entitled for Advance Authorization for Annual Requirement.
- (ii) Materials imported under Advance Authorization will '**Actual User Condition**'. These imported goods will not be transferable even after completion of export obligation. However, holder of Advance Authorization will have an option to dispose off product manufactured out of duty-free inputs once export obligation is completed.
- (iii) Advance Authorization is issued for inputs in relation to the resultant product on the basis of SION. If SION for a particular item is not fixed, Regional Authority (RA) based on self-declaration by applicant, except certain specified products, can issue Advance Authorization.
- (iv) It is necessary to establish that inputs actually used in manufacture of the export product should only be imported under Advance Authorization and inputs actually imported must be used in the export product, for redeeming the Authorization.
- (v) **The imports against Advance Authorizations for physical exports are exempted from IGST and compensation cess. Further, capital goods imported under EPCG Authorization for physical exports are exempted from IGST and compensation cess. In case of goods imported by EOU/EHTP/STP/BTP units from DTA, IGST and GST compensation cess are exempt.**

Earlier, there was a restriction that the above exemptions were available upto 30.06.2022. The said restriction has been relaxed and the said exemptions are now available without any time restriction. [Notification No. 16/2015-2020 dated 01.07.2022]

**Duty Free Import Authorization Scheme**

<b>Meaning</b>	Inputs, which are used in the export product, can be imported without payment of customs duty only for those products for which Standard Input and Output Norms (SION) have been notified. <b>Imported goods are exempted ONLY from Basic Customs Duty</b>
<b>Validity</b>	12 months from the date of issue of such Authorisation (i.e. transferable DFIA). Holder of DFIA has an option to procure inputs from indigenous manufacturer.
<b>When to obtain DFIA from RA</b>	Within 12 months from date of export or 6 months from the date of realisation of export proceeds, whichever is later. DFIA shall be issued on post export basis.
<b>DFIA not allowed</b>	No DFIA shall be issued for an export product where SION prescribe 'Actual User' condition for any input.
<b>Who are eligible</b>	Manufacturer exporter, Merchant exporter, Supplies made to SEZ's



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<b>Conditions for Redeeming DFIA</b>	Inputs actually used in manufacture of the export product should only be imported under DFIA and inputs actually imported must be used in the export product, for redeeming the DFIA.
<b>Value addition</b>	20%

### Other Points:

- 1) The Duty-Free Import Authorisation (DFIA) scheme introduced in 2006 is similar to Advance Authorisation scheme in most aspects with minimum value addition requirement of 20%.
- 2) It is granted on port-export basis.
- 3) Once export obligation is completed, transferability of authorisation/ material imported against the authorisation is permitted. However, once the transferability has been endorsed, the inputs can be imported/domestically sourced only on payment of Additional Customs duty/Central Excise duty.
- 4) The DFIA Authorisations are issued only for products for which SION have been notified.
- 5) The DFIA Authorizations are exempted only from Basic Customs Duty

### Difference between AA and DFIA

<b>Advance Authorization Scheme</b>	<b>DFIA Scheme</b>
Form ANF-4A	Form ANF-4H
Fuel also allowed	Fuel not eligible to be imported free
Eligible for SION/ Non-SION goods	Only for SION products
Min. Value addition –15%	20%
Scheme/ inputs never transferable	Both transferable after fulfilling export obligation

### Exemption from IGST and GST compensation cess extended upto 31.03.2022 in case of imports under Advance Authorization, EPCG, EOU/EHTP/STP/BTP units

Exemption from IGST and GST compensation cess, in case of imports under Advance Authorisation, EPCG, EOU/EHTP/STP/BTP units, granted without any time restriction. Earlier, there was a restriction that the above exemptions were available upto 30.06.2022. The said restriction has been relaxed and the said exemptions are now available without any time restriction. **[Notification No. 16/2015-2020 dated 01.07.2022]**

### Exemption from IGST and GST Compensation Cess extended to deemed exports in case of Advance Authorisation and pre-import condition for said exemption dispensed with:

Exemption from IGST and GST Compensation Cess is available to imports under Advance Authorisation. Earlier, this exemption was restricted to only physical exports and was subject to pre-import condition. Now, pre-import condition for said exemption has been dispensed with and said exemption has been extended to following deemed exports:

- 1) Supply of goods by registered person against Advance Authorisation
- 2) Supply of capital goods by a registered person against Export Promotion Capital Goods Authorisation

**Standard Input Output Norms:**

Standard Input Output Norms or SION in short is standard norms which define the amount of input/inputs required to manufacture unit of output for export purpose. Input output norms are applicable for the products such as electronics, engineering, chemical, food products including fish and marine products, handicraft, plastic and leather products etc. SION is notified by DGFT in the Handbook, and is approved by its Boards of Directors.

An application for modification of existing Standard Input-Output norms may be filed by manufacturer exporter and merchant-exporter. The Directorate General of Foreign Trade (DGFT) from time-to-time issue notifications for fixation or addition of SION for different export products.

**Duty Drawback Scheme****Exported goods named in All Industry DDB list**

All Industry Duty Drawback Rate applicable, provided such DDB covers 80% of Duties suffered already. Otherwise, Special Brand Rate of DDB applicable.

**Exported goods NOT named in All Industry DDB list**

Brand Rate of DDB applicable

**Duty Remission Scheme in GST**

<b>Supply under Bond or letter of undertaking (LUT)</b>	Export without payment of IGST. Apply for refund of ITC u/r 96A of CGST Rules, 2017.
<b>Export on payment of IGST</b>	Claim refund of IGST paid on export u/s 54 of the CGST Act, 2017.



### EXPORT PROMOTION CAPITAL GOODS (EPCG) SCHEME

This is a scheme relating to import of capital goods at Zero duty. The benefit of zero duty is subject to fulfilment of export obligations and other conditions.

**The objective:** To facilitate import of capital goods for producing quality goods and services to enlarge India's export competitiveness.

Authorization shall be valid for **24 months** from the date of issue of Authorization.

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.

#### Schemes:

- 1) Import capital goods by enjoying the zero duty benefit first and then fulfil the export obligation conditions within the stipulated period. This is called Pre-Export EPCG
- 2) Post Export EPCG: Under this, capital goods are imported first by paying import duty, then remission (refund) of import duties is claimed after fulfilling export obligation.
- 3) EPCG Scheme for capital goods purchased in India.

#### 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) for such EPCG Authorizations would be **6 times of duty** saved on capital goods to be fulfilled in 6 years reckoned from the date of issue of authorization.

<b>Duty Saved Amount:</b>	₹
Effective duty under Project Imports	xxx
Less: Concessional duty under the EPCG Scheme	(xx)
Duty Saved amount	xxx

In case of indigenous sourcing of capital goods, specific EO shall be 25% less than the EO mentioned above, i.e. EO will be 4.5 times (75% of 6 times) of duty saved on such goods procured.

**Average Export Obligation** (Average EO) means is the average level of exports made by the applicant in the preceding 3 licensing years for the same and similar product. It has to be achieved within the overall EO period (i.e. within 6 years reckoned from the date of issue of authorization).

In cases where Authorization 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 Authorization redeemed.



Shipments under Advance Authorisation, DFIA, Drawback scheme, or reward schemes; would also be counted for fulfillment of EO under EPCG Scheme.

EO can also be fulfilled by the supply of Information Technology Agreement (ITA-1) items to DTA, provided realization is in free foreign exchange. Both physical exports as well as specified deemed exports shall also be counted towards fulfillment of export obligation.

### 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) and it can be utilized in the similar manner as the scrip's issued under reward schemes.

Specific EO shall be 85% of the applicable specific EO stipulated under EPCG scheme. Average EO remains unchanged. Duty Drawback can be claimed for the duties paid like CVD & Spl. CVD paid on import of capital goods provided CENVAT Credit not availed.

### The following are eligible for EPCG Scheme:

- 1) Manufacturer exporters with or without supporting manufacturer(s),
- 2) Merchant exporters tied to supporting manufacturer(s), and
- 3) Service providers including service providers designated as Common Service Provider (CSP) subject to prescribed conditions.

**Note:** "Common Service Provider" (CSP) means a service provider who is designated or certified as a Common Service Provider by the DGFT, Department of Commerce or State Industrial Infrastructural Corporation in a Town of Export Excellence;

### Eligible capital goods for import under EPCG Scheme:

- 1) Capital Goods including capital goods in CKD/SKD condition
- 2) Computer software systems
- 3) Spares, moulds, dies, jigs, fixtures, tools & refractories for initial lining and spare refractories
- 4) Capital goods for Project Imports notified by CBEC.

### Ineligible capital goods for import under EPCG Scheme:

1. Second hand capital goods
2. Power Generator Sets

### Example:

X Ltd., imported a machine from USA under EPGC Scheme with zero customs duty in the financial year 2015-16 for production of product 'P'. Customs duty otherwise payable is ₹ 20 lakh. Find the specific export obligation and average export obligation. Exports of finished goods 'P' in the preceding 5 licensing years are as follows:



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Particulars	2014-15	2013-14	2012-2013	2011-12	2010-11
FOB value of exports in INR	80 lakh	72 lakh	45 lakh	50	25

### Answer:

Specific Export Obligation is ₹ 120 lakh. It means capital goods imported under EPCG scheme should produce finished goods worth ₹ 120 lakh for export over a period of 6 years reckoned from the date of issue of Authorization.

Average Export Obligation is ₹ 65.67 lakh. It has to be achieved within the overall EO period (i.e. within 6 years reckoned from the date of issue of authorization).

Export obligation consists of average export obligation and specific export obligation. Hence, to redeem export obligation both specific and average export obligation should be fulfilled.

## REWARD SCHEMES (i.e. Duty Credit Schemes)

The scheme for goods export is known as **Merchandise Exports from India Scheme (MEIS)**. The scheme for services exports is known as **Service Exports from India Scheme (SEIS)**. Rewards offered under the scheme are in the form of easily transferable duty credit scrips.

Rewards are also available to export of articles through foreign post offices or couriers using e-Commerce Mode.

Rewards are computed as percentage of FOB value of goods or NFE (Net Foreign Exchange) of services exported.

### (1) Merchandise Export from India Scheme (MEIS):

The objective of MEIS is to compensate infrastructural inefficiencies and associated cost involved in export of goods/products, which are produced/manufactured in India, especially goods having high export intensity, employment potential and thereby enhancing India's export competitiveness.

### MEIS replaced with a new scheme with effect from 01.01.2021

Benefits under MEIS are not available for exports made with effect from 01.01.2021. Further, Government has introduced a new scheme Remission of Duties and Taxes on Exported Products (RoDTEP) to all export goods with effect from 01.01.2021.

The RoDTEP scheme seeks to refund to exporters the embedded Central, State and local duties/taxes that were so far not being rebated/refunded. The refund would be credited in an exporter's ledger account with customs and used to pay basic customs duty on imported goods. The credits can also be transferred to other importers

An exporter desirous of availing the benefit of the RoDTEP scheme is required to declare his intention for each export item in the shipping bill or bill of export. The RoDTEP is allowed, subject to specified conditions and exclusions. **[Notification No. 30/2015-2020 dated 01.09.2020 and Press Release dated 31.12.2020]**

**MEIS Reward Rates:**

Reward rates are prescribed under Appendix 3B-MEIS Schedule Table 2. ITC (HS) code wise list of products with rewards rates are incorporated under Appendix 3B.

There are **three** types of reward rates are prescribed namely **2%, 3% and 5%**. Applicability of these rates depends up on the country group and description of goods.

On request, split certificates of Duty Credit Scrip subject to a minimum of ₹ 5 Lakh each and multiples thereof may also be issued, at the time of application.

Once Duty Credit Scrip has been issued, request for splits can be permitted with same port of registration as appearing on the original Scrip.

The above procedure shall be applicable only in respect of EDI enabled ports.

In case of export through non-EDI ports, the facility of splits shall not be allowed after issue of Scrip.

Social Welfare Surcharge (SWS) cannot be paid by utilizing MEIS/SEIS Scrip

**Basis of calculation of MEIS reward or Duty Credit Scrip:**

Duty Credit Scrip: [(FOB Value of Exports realized in free foreign exchange OR FOB Value of Exports as given in shipping bills in free foreign exchange whichever is less)] \* Reward Rate

**Example 4:**

During FY 2019-20 S Pvt Ltd has made Exports of "Safety Valves" coming under Chapter Heading 8481. Country of Export – USA & UK.

Realised FOB value of exports in free foreign exchange: ₹ 50 Crore

FOB value of exports as given in the Shipping Bills in free foreign exchange (Covered in ₹): ₹ 55 Crore. As per Appendix 3B of Foreign Trade Policy 2015-20, reward for Export of Safety Valves to USA & UK is 3%.

Find the Duty Credit Scrip or MEIS reward available to S Ltd.

**Answer:**

Realised FOB value of exports = ₹ 50 crore or

FOB value of exports = ₹ 55 crore (as given in the Shipping Bills)

Whichever is LESS.

Therefore, MEIS Reward available to S Pvt Ltd for F.Y. 2019-20 would be ₹ 1.5 Crores (i.e. ₹ 50 Cr x 3%).

**MEIS duty credit scrips are not allowed in the following cases:**

- (1) EOUs / EHTPs / BTPs/ STPs who are availing direct tax benefits / exemption
- (2) Supplies made from DTA units to SEZ units
- (3) Exports through trans-shipment, i.e., exports that are originating in third country but trans-shipped through India
- (4) Deemed Exports
- (5) SEZ/EOU/EHTP/BTP/FTWZ products exported through DTA units
- (6) Export products which are subject to Minimum export price or export duty
- (7) Ores and concentrates of all types and in all formations



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- (8) Cereals of all types
- (9) Sugar of all types and all forms unless specifically notified.
- (10) Crude / petroleum oil and crude / primary and base products of all types and all formulations
- (11) Export of milk and milk products and meat and meat products unless specifically notified.

### Export of goods through courier/foreign post offices using e-commerce:

The following products are eligible for rewards under MEIS:

- Exports of handicraft items,
- Export of handloom products,
- Export of books/periodicals,
- Export of leather footwear,
- Export of toys and
- Export of tailor-made fashion garments

through courier or foreign post office using e-commerce of FOB value up to ₹ 25,000 per consignment shall be entitled for rewards under MEIS. In case the value exceeds INR 25000, MEIS reward would be limited to FOB value of INR 25000 only.

However, DGFT vide Notification No. 22/2015-20, dated 26th July 2018 has amended the said provision and provided that for export of aforesaid items through courier or foreign post office of FOB value upto ₹ 5,00,000 per consignment will be entitled for reward under MEIS. **If the value of exports is more than ₹ 5,00,000 per consignment then MEIS reward would be calculated on the basis of FOB value of ₹ 5,00,000 only.**

**Example 5:** Classmate Printers Pvt. Ltd., manufactured register account books & letter pads and exported the same by courier at FOB value of 4,000 USD per consignment to USA and 6,500 UK Pounds per consignment to UK. During the year, 40 consignments sent to USA. Exchange rate is ₹ 70 per USD. 20 consignments sent to UK.

Exchange rate is ₹ 88 per Pound. Classmate Printers Pvt. Ltd., entitled 2% reward rate. Find the reward amount under MEIS for Classmate Printers Pvt. Ltd.

**Answer:**

**Export to USA:**

Reward amount in ₹ 2,24,000 [(i.e. ₹ 2,80,000 x 40 consignments) x 2%]

[i.e. (4,000 USD x ₹ 70) = ₹ 2,80,000

(Maximum permissible per consignment is ₹ 5,00,000)

**Export to UK:**

Reward amount in ₹ 2,00,000/- [i.e. (6,500 UK Pounds x ₹ 88 = ₹ 5,72,000)

however, maximum is ₹ 5,00,000 per consignment.

[i.e. ₹ (5,00,000 x 20) x 2%] = ₹ 2,00,000



**Last date for filing application for obtaining Duty Credit Scrip under MEIS shall be Later of:**

(1) 12 months from the Let Export Order date **OR**

(2) 3 months from the date of:

- Uploading of EDI shipping bills into the DGFT server by Customs
- Printing/ release of shipping bills for Non-EDI shipping bills

## **(2) SERVICE EXPORTS FROM INDIA SCHEME (SEIS)**

### **Entitlement:**

Service Providers of notified services, located in India, shall be rewarded under SEIS at specified rate(s) to be calculated on Net Foreign Exchange.

### **Eligibility:**

To be eligible, a service provider (Company / LLP / Partnership Firm) should have a minimum net free foreign exchange earnings of US \$ 15000 in the preceding financial year to be eligible for duty credit scrips.

For proprietorships or individual service providers, a minimum net foreign exchange earnings of US \$10,000 in the preceding financial year is required to be eligible for the scheme. Also, in order to claim reward under the SEIS scheme, the service provider shall have to have an active Import Export Code (IE Code) at the time of rendering such services for which rewards are claimed.

### **Duty Credit Scrip:**

Service providers of eligible services shall be entitled to duty credit scrip at notified rates on the net foreign exchange earned. Duty credit scrips can be used for the payment of custom duties, excise duties, service tax on procurement of services, custom duty in case of default in fulfillments of export obligation under Advance Authorization/EPCG, etc., Further, the SEIS scheme has given relaxation to the actual user condition and duty credit scrips and goods imported using duty credit scrips are freely transferable. Duty credit scrip would be valid for a period of **18 months from the date of issue**.

**Service Provider** - means a person providing service by adopting either of the following business models;

- Model 1** - Supply of a 'service' from India to any other country; (Cross border trade)
- Model 2** - Supply of a 'service' from India to service consumer(s) of any other country in India; (Consumption abroad)
- Model 3** - Supply of a 'service' from India through commercial presence in any other country. (Commercial Presence.)
- Model 4** - Supply of a 'service' from India through the presence of natural persons in any other country (Presence of natural persons.)

**Reward is available in case of exports effected under Model 1 and Model 2 only**



### Net Foreign Exchange – How to calculate?

**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.

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.

In other words, Foreign Exchange earned from export of services only shall be considered for the calculation of reward under SEIS.

In case of specified services [as may be notified], even realisation in Indian Rupees shall be considered for calculation of reward and accordingly be treated as receipt in deemed foreign exchange as per guidelines of Reserve Bank of India.

### Ineligible categories of Foreign Exchange

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, payments received from EEFC A/c, Export of Goods, etc. and any other inflow of foreign exchange, unrelated to rendering of service, would be ineligible.

### Procedure:

- A. An application for grant of duty credit scrip for eligible services rendered shall be filed online for a financial year on annual basis in ANF 3B using digital signature.
- B. Certification to be obtained from CS/ CA/ CMA as regards the categorization of service provider and services exported and the calculation of Net Foreign Exchange Earned and shall be annexed to ANF3B
- C. Advisable that Service Invoice should contain endorsement as to the status of such exports under SEIS and the relevant Central product Classification (CPC) Code.
- D. **Realization of export proceeds** and linkage thereof with the export invoices is essential.
- E. RA shall process the application received online after due scrutiny
- F. **Limitation for filing of application under SEIS** - Application in Form Appendix 3C shall be filed within a period of 12 months from the end of relevant financial year of claim period.

### Example 6:

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:

- (a) Net Foreign Exchange (NFE) earned by Mr. Raj, a service provider, in the preceding financial year is USD 4,500.
- (b) X & Co., is a partnership firm, supplier of taxable services, has earned net foreign exchange to the tune of USD 17,500 in the preceding financial year.



- (c) Mr. Roshan, a service provider, has earned net foreign exchange of USD 13,000 in the preceding financial year. Out of this, USD 4,000 has been paid to Mr. Roshan through the credit card of the foreign client.

Note: all the Above services providers have an active IEC at the time of rendering services.

**Answer:**

- (a) Mr. Raj is not eligible for SEIS Scheme as his net foreign exchange earnings are less than USD 10,000 (minimum limit for individuals).
- (b) X & Co., being a partnership firm eligible for SEIS Scheme as their net foreign exchange exceeds the limit of USD 15,000 (minimum limit for firms).
- (c) Foreign exchange earned through credit cards is counted for the purpose of computing the limit of minimum net foreign exchange required for being eligible to SEIS Scheme. Thus, Mr. Roshan is eligible for SEIS Scheme.

**Example 7:**

George Inc., a US based company, sought architectural services from ABC India Pvt. Ltd. with regard to its newly established business in New York in April, 2015. ABC India Pvt. Ltd. charged US \$50,000 as a consideration for the architectural services provided to George Inc. In addition, ABC India Pvt. Ltd., also exported goods worth US \$15,000 to George Inc. and received the entire consideration of US \$65,000 on 28-04-2015. Discuss the eligibility of ABC India Pvt. Ltd., for duty credit scrip entitlement under the Service Exports from India Scheme (SEIS).

Notes:

- (i) ABC India Pvt. Ltd., has an active Importer Exporter Code (IEC) at the time of rendering such services.
- (ii) Net Foreign Exchange earnings of ABC India Pvt. Ltd., in the financial year 2014-15 is US \$16,000.
- (iii) Notified rate of reward for architectural services is 5%

Will your answer be different if ABC India Pvt. Ltd., had provided telecom services to George Inc.?

**Answer:**

Duty credit scrip entitlement of ABC India Pvt. Ltd. is 5% of US \$ 50,000 i.e., US \$ 2,500.

Further, if ABC India Pvt. Ltd. had provided telecom services to George Inc., it would not have been eligible for the duty credit scrip entitlement under the SEIS.

**Example 8:**

XYZ Co. Ltd., Delhi, with an active IEC, has provided research and development services on natural sciences\* to a US based company in the current financial year. It has earned net foreign exchange to the tune of USD 14,000 in the preceding financial year. Can XYZ Co. Ltd. avail the benefit of Service Exports from India Scheme (SEIS) with respect to services provided by it?

\*Notified for availing benefit under Service Exports from India Scheme (SEIS)



### Answer:

For availing SEIS by a person (other than individual or sole proprietor) need to fulfil minimum NFE is 15,000 USD. In the given case XYZ & Co. Ltd. Delhi is not entitled to avail the SEIS, since, their NFE in the preceding previous year is 14,000 USD only.

## RODTEP SCHEME

The Government had recently announced the introduction of a new scheme “**Remission of Duties and Taxes on Exported Products**” (**RoDTEP**) to replace the Merchandise Exports from India Scheme (MEIS) available to exporters of goods. Accordingly, the items covered under the existing MEIS scheme would be shifted in a phased manner to the new RoDTEP scheme.

RoDTEP has been made effective for exports from 1st January 2021 in respect of those exports where intention to claim the benefit has been manifested on the shipping bills. RoDTEP is going to give a boost to Indian exports by providing a level playing field to domestic industry abroad.

### 1. RoDTEP Benefits:

Being WTO-compliant, the RoDTEP scheme can make available from the government benefits to the exporters seamlessly.

- (a) The scheme is more exhaustive in that certain taxes that were not covered under the previous scheme are also included in the list, for example, education cess, state taxes on oil, power and water.
- (b) It will add more competitiveness in the foreign markets, with assured duty benefits by the Indian Government.
- (c) It will also help exporters meet international standards and promote business growth etc.,

### 2. Objective of RODTEP Scheme:

The Scheme’s objective is to refund, currently un-refunded duties and taxes. The scheme has been introduced with an objective to neutralize the taxes and duties suffered on exported goods which are otherwise not credited or remitted or refunded in any manner and remain embedded in the export goods. This scheme provides for rebate of all hidden Central, State, and Local duties/taxes/levies on the goods exported which have not been refunded under any other existing scheme namely:

- ✓ Mandi Tax,
- ✓ Municipal Taxes,
- ✓ Property Taxes,
- ✓ VAT,
- ✓ Coal Cess,
- ✓ Central Excise duty on fuel,
- ✓ Electricity duty on purchase of electricity,
- ✓ Stamp duty on export documents; etc.

will now be refunded under this particular scheme.



All the items under the MEIS and the RoSCTL (Rebate of State and Central Taxes and Levies) are now under the purview of the RoDTEP Scheme.

### **3. RODTEP Scheme Operating Principles:**

- (1) RoDTEP support will be available to eligible exporters at a notified rate as a percentage of Freight On Board (FOB) value. Rebate on certain export products will also be subject to value cap per unit of the exported product. However, for the purpose of calculation of duty credit, value of exported shall be least of the following:
  1. FOB value of said goods, or
  2. 1.5 times of the market price of the goods.
- (2) Identified export sectors and rates under RoDTEP cover 8555 tariff lines in addition to similar support being extended to apparel and made-ups exports under RoSCTL scheme of Ministry of Textiles.
- (3) Employment Oriented Sectors like Marine, Agriculture, Leather, Gems & Jewellery etc. are covered under the Scheme. Other sectors like Automobile, Plastics, Electrical / Electronics, Machinery etc. also get support. The entire value chain of textiles also gets covered through RoDTEP & RoSCTL.
- (4) Rebate under the Scheme shall not be available in respect of duties and taxes already exempted or remitted or credited.
- (5) The determination of ceiling rates under the scheme will be done by a Committee in the Department of Revenue/Drawback Division with suitable representation of the DoC/DGFT, line ministries and experts, on the sectors prioritized by Department of Commerce and Department of Revenue.
- (6) No provision for remission of arrears or contingent liabilities is permissible under the Scheme to be carried over to the next financial year.
- (7) The rebate allowed is subject to the receipt of sale proceeds within time allowed under the Foreign Exchange Management Act, 1999 failing which such rebate shall be deemed never to have been allowed. The rebate would not be dependent on the realisation of export proceeds at the time of issue of rebate. However, adequate safeguards to avoid any misuse on account of non-realisation and other systemic improvements as in operation under Drawback Scheme, IGST and other GST refunds relating to exports would also be applicable for claims made under RoDTEP Scheme.

### **4. Mechanism of Issuance of Rebate:**

- (a) Scheme would be implemented through end-to-end digitalization of issuance of rebate amount in the form of a transferable duty credit/electronic scrip (e-scrip), which will be maintained in an electronic ledger by the Central Board of Indirect Taxes and Customs (CBIC).
- (b) Necessary rules and procedure regarding grant of RoDTEP claim under the scheme and implementation issues including manner of application, time period for application and other matters including export realisation, export documentation, sampling procedures, record keeping etc. would be notified by the CBIC, Department of Revenue on an IT enabled platform with a view to end to end digitalisation.



(c) Necessary provisions for recovery of rebate amount where foreign exchange is not realised, suspension / withholding of RoDTEP in case of frauds and misuse, as well as imposition of penalty will also be built suitably by CBIC.

### 5. Eligible Sectors for RoDTEP Scheme:

The following sectors are eligible to avail of benefits under the scheme.

- (1) All sectors shall be covered under the scheme. Labour-intensive sectors will be accorded a priority.
- (2) Both manufacturer exporters and merchant exporters (traders) are eligible.
- (3) There is no turnover threshold for availing benefits under the scheme.
- (4) Re-exported products are not eligible under this scheme.
- (5) The exported products should have India as their country of origin to be eligible for benefits under the scheme.
- (6) Special Economic Zone Units and Export Oriented Units are also eligible.
- (7) The scheme also applies to goods that have been exported via courier through e-commerce platforms.

### 6. Ineligible categories under the Scheme for claiming benefit:

The following categories of exports/exporters which shall not be eligible for rebate under the RoDTEP Scheme:

- (i) Exports of imported goods as per para 2.46 of FTP i.e. Import for Export;
- (ii) Exports through trans-shipments, meaning thereby exports originating in third country but trans-shipped through India;
- (iii) Export products which are subject to minimum export price or export duty;
- (iv) Products which are restricted for exports under Schedule-2 of Export Policy in ITC (HS);
- (v) Products which are prohibited for exports under Schedule-2 of Export Policy in ITC (HS);
- (vi) Deemed Exports;
- (vii) Supplies of products manufactured by DTA units to SEZ/FTWZ units;
- (viii) Products manufactured in EHTP and BTP;
- (ix) Products manufactured partly or wholly in a warehouse under section 65 of Customs Act, 1962 ;
- (x) **\*Products manufactured or exported in discharge of export obligation against advance authorisation or Duty Free Import Authorization (DFIA) or Special Advance Authorisation issued under a duty exemption scheme of relevant Foreign Trade Policy;**
- (xi) **\*Products manufactured or exported by a unit licensed as 100% Export Oriented Unit (EOU) in terms of the provisions of the Foreign Trade Policy;**
- (xii) **\*Products manufactured or exported by any of the units situated in Free Trade Zone (FTZ), Export Processing Zones (EPZ) or Special Economic Zone (SEZ);**
- (xiii) Products manufactured or exported availing the benefit of Notification No 32/1997- Customs dated 01.04.2017 (i.e. jobbing transactions);
- (xiv) Exports for which electronic documentation in ICEGATE EDI has not been generated or Exports from Non-EDI port; and
- (xv) Goods which have been taken into use after manufacture (i.e. second-hand goods);



**Note:** The exporters under the categories of SEZ, EOU, Advance Authorisation etc. and the RoDTEP rates for export items under such categories **would be decided later based on the recommendations of the RoDTEP Committee**

## 7. RoDTEP vs MEIS

Feature	RoDTEP Scheme	MEIS
<b>Incentive Scheme</b>	Refund of indirect taxes on inputs used in the manufacture of exported products that are not being currently reimbursed in any other existing schemes.	Incentive on exports of goods in form of transferable scrips
<b>Mode of issue</b>	Issued in the form of transferable duty credit/ electronic scrip, which will be maintained in electronic ledger	Issued in the form of transferable scrips (physical copy)
<b>WTO compliant</b>	Yes. It is as per WTO norms.	No
<b>Incentive</b>	At a notified rate as a percentage of Freight On Board (FOB) value. Rebate on certain export products will also be subject to value cap per unit of the exported product.	As a % of realised FOB value of exports in free foreign exchange or FOB value of exports as per shipping Bill, whichever is lower.
<b>Transferable</b>	Transferable in open market	Transferable in open market

## 8. The process of generating and claiming scrips as per the RoDTEP scheme is shown below

**Step 1:** The exporter should file a claim declaration for RoDTEP in the shipping bill.

**Step 2:** Upon filing the Export General Manifest (EGM), the Customs initiate the processing of the claim.

**Step 3:** Post-processing, a scroll with all Shipping Bills for the mentioned amount shall be generated and then shared on the user's account at the ICEGATE portal.

**Step 4:** The exporter must log in to the said portal and create a credit ledger account.

**Step 5:** Next, the exporter can log into the portal and generate scrips via choosing the relevant shipping bills.

**Step 6:** Next, the refund shall be credited to the exporter account for specific utilization purposes

**Electronic Bank Realisation Certificate:** An eBRC (electronic Bank Realisation Certificate) refers to a digital certificate for those engaged with the export business. It is granted by the designated bank as confirmation that the concerned exporter has received payment against the exports of goods or services.

**Registration Cum Membership Certificate:** As per the Foreign Trade Policy, a RCMC is required to avail benefits under the policy. The certificate mainly benefits the exporters and helps reduce immediate liabilities relating to shipping.



### 9. Utilisation of Duty Credit

The created and approved Scrips can either be used for debiting Basic Customs Duty for own imports or the approved Scrip can be transferred to another IEC holder who is also created RODTEP Ledger under his log in Credentials. The current owner of the Scrip can use the scrip credits for debiting to his imports in the same manner in the past like all other scrips like MEIS, RoSCTL etc as in the past.

### DEEMED EXPORTS

Goods manufactured in India and supplies from DTA to EOU, EHTP, STP & BTP units will be regarded as deemed exports and DTA supplier shall be eligible for export incentives.

“Deemed Exports” for the purpose of this FTP 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.

“Deemed Exports” for the purpose of GST would include only the supplies notified under Section 147 of the CGST/SGST Act, on the recommendations of the GST Council. The benefits of GST and conditions applicable for such benefits would be as specified by the GST Council and as per relevant rules and notification.

#### Goods supplied by a manufacturer:

1. Supply of goods against Advance Authorisation/ Advance Authorisation for Annual Requirement/ DFIA.
2. Supply of goods to units located in EOU/ STP/BTP/EHTP.
3. Supply of capital goods against EPCG authorization.
4. Supply of marine freight containers by 100% EOU provided said containers are exported within 6 months by another 100% EOU.

#### Goods supplied by a Main contractor / sub-contractor:

1. Supply of goods to projects or turnkey contracts financed by multilateral or bilateral agencies/Funds notified by Department of Economic Affairs (DEA), under International Competitive Bidding.
2. Supply of goods to any project where import is permitted at zero customs duty.
3. Supply of goods to mega power projects against International Competitive Bidding.
4. Supply to goods to UN or international organisations.
5. 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:

- (a) Advance Authorization / Advance Authorization for annual requirement /DFIA.
- (b) Deemed Export Drawback for BCD (Basic Custom Duty).
- (c) Domestic supplies to EOUs would be treated as deemed exports under Section 147 of CGST/SGST Act and refund of tax paid on such supplies given to the supplier.

**Principles of restrictions and prohibitions for imports/exports revised to be in line with international agreements**

With effect from 10.08.2021, principles of restrictions and prohibitions for imports/exports have been revised as follows. The DGFT may, through a notification, impose 'prohibition' or 'restriction':-

- 1) on export of foodstuffs or other essential products for preventing or relieving critical shortages;
- 2) on imports and exports necessary for the application of standards or regulations for the classification, grading or marketing of commodities in international trade;
- 3) on imports of fisheries product, imported in any form, for enforcement of governmental measures to restrict production of the domestic product or for certain other purposes;
- 4) on import to safeguard country's external financial position and to ensure a level of reserves.
- 5) on imports to promote establishment of a particular industry;
- 6) for preventing sudden increases in imports from causing serious injury to domestic producers or to relieve producers who have suffered such injury;
- 7) for protection of public morals or to maintain public order;
- 8) for protection of human, animal or plant life or health
- 9) relating to the importations or exportations of gold or silver;
- 10) necessary to secure compliance with laws and regulations including those relating to the protection of patents, trademarks and copyrights, and the prevention of deceptive practices
- 11) relating to the products of prison labour
- 12) for the protection of national treasures of artistic, historic or archaeological value
- 13) for the conservation of exhaustible natural resources
- 14) for ensuring essential quantities for the domestic processing industry
- 15) essential to the acquisition or distribution of products in general or local short supply;
- 16) for the protection of country's essential security interests:
  - i. relating to fissionable materials or the materials from which they are derived;
  - ii. relating to the traffic in arms, ammunition and implements of war;
  - iii. taken in time of war or other emergency in international relations; or
- 17) in pursuance of country's obligations under the United Nations Charter for the maintenance of international peace and security.

The aforesaid principles of restrictions and prohibitions for imports/exports have been amended to be in line with international agreements. **[Notification No. 17/2015-2020 dated 10.08.2021]**

**PENALTIES**

In case any exporter or importer in the country violates any provision of the Foreign Trade Policy, the office of DGFT can cancel his IEC number and thereupon that exporter or importer would not be able to transact any business in export/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/export has been made by unauthorized persons who are not legally allowed to carry out import/export or when any person carries out or admits to carry out any import/export in contravention of the basic FTP.



### SPECIAL ECONOMIC ZONE SCHEME (WITH RULES)

The provisions relating to SEZ are contained in Special Economic Zone Act, 2005 and SEZ Rules, 2006.

- ✓ SEZs are like a separate island within territory of India.
- ✓ SEZs are projected as duty free area for the purpose of trade, operation, duty and tariffs.
- ✓ Goods and services coming to SEZ units from domestic tariff area are treated as exports from India and goods and services rendered from SEZ to the DTA are treated as import into India.

A Special Economic Zone or SEZ is a specially marked territory or enclave within the national borders of a country that has more liberal economic laws than the rest of the country.

#### 1. Applicability of Taxes and Duties to SEZ units:

SEZs are treated as foreign territory for tax purposes even though they are located within a country's borders. Supplies into SEZs are exempt from paying GST because they are considered as exports. However, when an SEZ supplies goods/services to a Domestic Tariff Area (DTA), it is exempt from paying taxes, although the receiver in the DTA has to pay IGST under reverse charge mechanism (RCM).

#### 2. Incentives to Special Economic Zone Units:

The government offers many incentives for companies and businesses established in SEZs. some of the important ones are:

- ✓ Duty-free import or domestic procurement of goods for developing, operating and maintaining SEZ units.
- ✓ 100% Income tax exemption on export income for SEZ units under the Income Tax Act, 1961 for first 5 years, 50% for next 5 years thereafter and 50% of the ploughed back export profit for next 5 years.
- ✓ Units are exempted from Minimum Alternate Tax (MAT).
- ✓ They were exempted from GST. Supplies to SEZs are zero-rated under the IGST Act, 2017.
- ✓ Single window clearance for Central and State level approvals.
- ✓ There is no need for a license for import.
- ✓ In the manufacturing sector, barring a few segments, 100% Foreign Direct Investment (FDI) is allowed.
- ✓ Profits earned are permitted to be repatriated freely with no need for any dividend balancing.
- ✓ There is no need for separate documentation for customs and export-import policy.
- ✓ Many SEZs offer developed plots and ready-to-use space.
- ✓ SEZ units are eligible for MEIS, SEIS and RoDTEP duty credit scrips.

Apart from the firms operating in SEZs, developers of SEZs also receive many benefits and incentives from the government.

**3. Benefits of Special Economic Zone (SEZ):**

- (a) SEZ units are permitted to import or get duty-free goods/materials etc. from domestic sources.
- (b) SEZ units import capital goods, raw materials, consumables, spares, packing materials, office equipment, etc. for operating their business in the SEZ, without the need for a license or other specific sanction.
- (c) Products imported or bought locally duty-free could be used for five years after approval.
- (d) After paying the necessary customs duties, finished goods and by-products may be sold domestically.
- (e) Domestic sales of waste, scrap, and rejected goods are permitted with payment of any applicable customs taxes.

**4. Types of Special Economic Zones in India:**

Some of the different types are:

- (a) Multi sector SEZ
- (b) Sector specific SEZ;
- (c) Free Trade and Warehousing Zone (FTWZ);
- (d) IT/Information Technology Enabled Services (ITeS)/handicrafts/bio-technology/non-conventional energy/gems and jewellery SEZ; and
- (e) International Financial Services Centre (IFSC).

**5. SEZ Approval Mechanism:**

The SEZ approval mechanism is a single-window process provided by a 19-member inter-ministerial SEZ Board of Approval (BoA).

- ✓ The developer has to submit the proposal to the state government.
- ✓ The state government forwards this proposal to the BoA along with its recommendation within forty-five days.
- ✓ The developer or applicant can also directly submit the proposal to the BoA.
- ✓ The Board, which has been constituted by the Central Government, and is a 19-member Board takes the decision considering the merits of the proposal. All decisions taken by the Board are by consensus.
  - The Board is chaired by the Secretary of the Dept. of Commerce, Ministry of Commerce and Industry.
  - The other members are from various bodies and ministries such as the Central Board of Indirect and Customs (CBIC), the Central Board of Direct Taxes (CBDT), Department of Economic Affairs, Dept. of Commerce, Ministry of Science and Technology, Ministry of Home Affairs, Ministry of Law and Justice, Ministry of Urban Development, etc.
- ✓ Once the BoA gives its approval, and the central government notifies the area of the SEZ, units are allowed to be established inside the SEZ.



### 6. Key amendments to Special Economic Zone Rules, 2006:

The Ministry of Commerce and Industry has announced significant amendments to the Special Economic Zone (SEZ) Rules, 2006. Certain procedural changes have been synced with Goods and Services Tax (GST).

- 1) Alignment of the existing SEZ law with GST.
- 2) No minimum area required for setting up SEZs in Biotechnology & Health Sector.
- 3) Merger of two or more units in the same SEZ of the same legal entity has been permitted.
- 4) Specified categories of supplies to Domestic Tariff Area (DTA) would not to be considered for computation of Net Foreign (Exchange) Earnings (NFE).
- 5) A new rule 21A has been inserted which deals with setting up of unit by Multilateral or Unilateral or International agencies in International Financial Services Centre. A Multilateral agency shall be allowed to set up their local or regional office in the International Financial Services Centre as an Unit.

The application for setting up and operation of such Unit in the International Financial Services Centre shall be made before the Board of Approval through the concerned Development Commissioner and the terms and conditions for setting up and operations by such Units shall be laid down by the Board of Approval based on the recommendation of the Development Commissioner.

- 6) In case of gems and jewellery unit, the semi-finished goods, precious metals and any other raw material (excluding diamonds or precious and semi-precious stones or lab grown diamonds) taken outside the Special Economic Zone for sub-contracting of studding by the unit shall be brought back into the unit within 45 days".
- 7) Work from home: As per The Ministry of Commerce and Industry on 14th July, 2022, the Special Economic Zones (Third Amendment) Rules, 2022, the insertion of new Rule 43A in the Special Economic Zones Rules has provided the companies or industries flexibility to allow a maximum 50% of their employees to work from home and along with prior permission to temporarily remove goods such as laptops, computers, electronic equipment, etc., from the SEZ unit to a domestic tariff area without payment of duty.

**Few differences between SEZ and EOU are as under**

<b>SEZ</b>	<b>EOU</b>
Supply to SEZ is called as export	Supply to EOU is called as deemed export
Supply from DTA to SEZ will attract IGST at zero Rate	Supply from DTA to EOU will attract GST as per applicable rate.
Refund of tax does not arise. Since, no tax suffered by SEZ unit	Refund of GST allowed to supplier or receiver (i.e. either one can claim refund of GST)
For SEZ units, export and import customs clearance is achieved within the zone itself.	For the clearance of imported consignments for EOU, there is a Fast Track Clearance Scheme (FTCS).
In SEZ, units can be set up only at the designated sites.	It can be set up anywhere in India. In other words, it is not bound by the location or any boundaries across India.
For SEZ units no specific minimum investment is required.	Only projects having a minimum investment of ₹ 1 crore in plant & machinery shall be considered for establishment as EOUs. However, Board of Approvals (BoA) may allow establishment of EOUs with a lower investment criteria also.