CA BRINDAVAN GIRI
(+919883571510)

CA FINAL – INDIRECT TAX
FOREIGN TRADE POLICY

Applicable for Nov 2014 exams

By CA BRINDAVAN GIRI
(Faculty for CA Final Indirect Tax & IPCC Tax)

Like us on facebook

Brindavan Giri Tax Classes
Contact No. - + 91 9883571510

Classes at Kolkata (Girish Park)

OPPORTUNITY DANCES WITH THOSE WHO ARE ALREADY ON THE DANCE FLOOR.

Jackson Browne

Foreign Trade Policy

*Foreign Trade Policy **is a set of guidelines or instructions** issued by the CG in matters related to import and export of goods in India viz., **foreign trade**. In the era of globalization, foreign trade has become the lifeline of any economy. **Its primary purpose is not merely to earn foreign exchange, but also to stimulate greater economic activity.***

Legislation governing foreign trade:

Foreign Trade (Development and Regulation) Act, 1992 FT(D&R) Act.

Objectives of FT(D&R) Act :-

(i) To make provisions for ***facilitating and controlling foreign trade***;

(ii) To ***prohibit***, ***restrict*** and ***regulate exports and imports***, in all or specified cases as well as subject them to exemptions;

(iii) To ***formulate and announce an export import policy*** and also ***amend the same*** from time to time;

(iv) To authorise to ***appoint a 'Director General of Foreign Trade' [DG(FT)]***for the purpose of the Act, including formulation and implementation of the export-import policy.

Announcement of Foreign Trade Policy:

FTP is announced in every 5 years. FTP was earlier called as Export Import policy i.e., EXIM Policy. I***t covers areas beyond export and import.*** This policy is **updated every year** in April, in addition to changes that are made throughout the year.

FTP ***was announced on 27th August, 2009***, is an ***integrated policy for the period 2009-14.*** It aims at ***developing export potential, improving export performance, boosting foreign trade, and earning valuable foreign exchange. It was valid upto31.03.2014. To provide continuity in policy environment, this is being extended beyond 31-3-2014*** *vide MC & I N/N 69(RE-2013)/2009-14 dt 19-2-2014*

Key Features of the FTP:

- **Free Export – Import:** Unless specifically regulated by provisions of the Policy or any other law.
- **Restrictions for strategic & health reasons:** There are restrictions on exports and imports for various strategic, health, and other reasons. If the goods are not banned, the government can give a permission/license for specific reasons.
- **Export Promotion Schemes:** Exports are promoted through various promotional schemes.
- **Duty Exemptions, drawbacks & rebates available:** **t**here should be no taxes on exports and hence, the taxes are either exempted or adjusted or refunded on both outputs and inputs, through schemes of Duty Exemption, Duty Refund (Drawbacks and Rebates).
- **Free import of capital goods for export:** Even capital goods can be **imported at NIL duty** for the purpose of exports **under EPCG scheme**.
- **Special Schemes for EOU:** For units undertaking to export all their production, there are special schemes so that they can avoid taxes at every stage under the scheme of EOU.

- **Deemed Exports:** In certain cases imports get duty exemption/concession for certain special purposes. In such cases, to enable domestic suppliers compete with the international suppliers, the supplies of domestic suppliers are treated as deemed exports.

Exports from and imports in India, need a lot of regulatory requirements to be complied with at various stages. Yet if properly planned, exports and imports can utilize a lot benefits that are available under various provisions of the FTP. The policy not only prescribes the guidelines as to which goods and services can be imported/exported and the relevant procedures thereto but also provides a lot of benefits if properly planned.

Administration of the FTP:

(a) Director General of Foreign Trade: *FTP is formulated, controlled and supervised by DGFT, an attached office of the Ministry of Commerce & Industry, Government of India. DGFT has several offices in various parts of the country which work on the basis of the policy formed by the headquarters at Delhi.*

Decision of DGFT is final and binding *in respect of interpretation of any provision of foreign trade policy, classification of any item in ITC (HS), content scope or issue of any authorization issued under the FTP.*

(b) Other authorities involved: *Though the FTP is formulated by DGFT, it is administered in close coordination with other agencies. Other important authorities dealing with FTP are:*

(i) ***Central Board of Excise & Customs:*** *CBEC comes under ministry of finance. It has 2 departments – excise & customs.*

(ii) ***Reserve Bank of India (RBI):*** *RBI is the nodal bank in the country which formulates the policies related to management of money, including payments and receipts of foreign exchange. It also monitors the receipt and payments for exports and imports. It works under Ministry of Finance.*

(iii) ***State VAT Departments:*** *Since VAT is payable on domestic goods but not on export goods, formalities with State VAT departments assume importance in ensuring tax free exports.*

Contents of FTP:

(i) ***FTP 2009-14:*** *having 9 Chapters giving basic policy. This is notified by the CG.*

(ii) ***Handbook of Procedures Volume I:*** *(HBP) containing 9 chapters, covering procedural aspects of policy. It also contains many Appendices, giving various forms, guidelines and lists.*

(iii) ***Handbook of Procedures Volume II:*** *(HBP) containing Standard Input-Output Norms (SION) of various products. Based on SION, exporters are provided the facility to make duty-free import of inputs required for manufacture of export products under the Duty Exemption Scheme or Duty Remission Schemes.*

(iv) ***ITC(HS) Classification of Exports and Import Items:*** *The Export Import Policy regarding import or export of a specific item is given in the Indian Trade Classification Code based on Harmonized System of Coding [ITC(HS)]. ITC-HS Coding was adopted in India for import-export operations. Indian custom uses eight digit ITC-HS Codes to suit the national trade requirements.*

ITC-HS codes are divided into two schedules. ***ITC(HS) Import Schedule I*** *describe the rules & guidelines related to* ***import policies*** *where as* ***Schedule II*** *describe the rules & regulation related to* ***export policies.*** *Presently, most of the goods can be imported without any authorization. Schedule II contains very few products, where export is prohibited or restricted. Excluding those items, export of all other goods is free.*

➔ ***Any changes or formulation or addition of new codes in ITC-HS Codes are carried out by DGFT.***

Foreign Trade Policy vis a vis tax laws:

FTP is closely knit with Customs and Excise. However, the policy provisions per-se do not override tax laws. Exemptions extended by FTP are given effect to by issue of notifications under respective tax laws (e.g., Customs Tariff Act). Thus, ***actual benefit of the exemption depends on the language of exemption notifications issued by the CBEC.*** *In most of the cases the exemption notifications refer to policy provisions for detailed conditions. Ministry of Finance/ Tax Authorities cannot question the decision of authorities under the Ministry of Commerce so far as the issue of authorization etc. is concerned.*

FTP, Handbook of procedures under FTP, Central Excise Act and Customs Act and notifications issued hereunder form an integrated scheme of indirect taxation. All these statues have to be read as a whole and not in isolation, since they are series of statues relating to same subject matter.

Scope of FTP: *The FTP covers the policies and regulations with respect to the following matters:*

- *(i) Policy for regulating import and export of goods and services*
- *(ii) Export Promotional Measures*
- *(iii) Duty Remission and Duty Exemption Scheme for promotion of exports*
- *(iv) Export promotion Capital Goods (EPCG) Scheme*
- *(v) Export Oriented Undertakings (EOU) / Electronic Hardware Technology Park (EHTP) / Software Technology Park (STP) and Bio Technology Parks (BTU) Schemes*
- *(vi) Special Economic Zones*
- *(vii) Deemed Exports*

Special Focus Initiatives: *The FTP provides certain* ***special focus initiatives for Market Diversification****, Technological Upgradation, Support to status holders, Agriculture, Handlooms, Handicraft, Gems & Jewellery, Leather, Marine, Electronics and IT Hardware Manufacturing Industries, Green products, Exports of products from North-East, Sports Goods and Toys sectors wherein the Government of India shall make concerted efforts to promote exports.*

Constitution of Board of Trade: *Board of Trade (BOT) has been constituted* **to advise Government** *on Policy measures* **for increasing exports, review export performance, review policy and procedures** *for imports and exports and* **examine issues relevant for promotion of India's foreign trade***. Commerce* ***& Industry Minister will be the Chairman*** *of the BOT. Government shall also* ***nominate upto 25 persons****, of* ***whom at least 10 will be experts in trade policy****. In* ***addition, Chairmen of recognized EPCs and President or Secretary-Generals of National Chambers of Commerce will be ex-officio members. BOT will meet at least once every quarter.***

General Provisions regarding Imports and Exports

1. ***Exports and imports are free unless regulated:*** *Exports and Imports shall be free, except where regulated by FTP or any other law in force. The item wise export and import policy shall be specified in ITC(HS) notified by DGFT from time to time.*

2. ***Compliance with laws:*** *Every exporter or importer shall comply with the provisions of the FT (D&R) Act ,rules & orders, the FTP and terms & conditions of any authorization granted to him. All imported goods shall also be subject to domestic laws, rules, orders, regulations, technical specifications, environmental and safety norms as applicable to domestically produced goods.*

3. ***Interpretation of policy:*** *If any question or doubt arises in respect of interpretation of any provision, said question or doubt shall be referred to DGFT whose decision thereon shall be final and binding.*

4. ***Procedure:*** *DGFT may specify procedure to be followed by an exporter or importer or by any licencing or any other competent authority for the purpose of implementing provisions of Foreign Trade Act, the rules and the orders made there-under and FTP.*

5. ***Exemption from Policy/Procedure:*** *DGFT may pass such orders or grant such relaxation or relief, as he may deem fit and proper, on grounds of genuine hardship and adverse impact on trade. DGFT may, in public interest, exempt any person or class or category of persons & impose conditions.*

6. ***Principles of Restriction:*** *DGFT may, through a notification, adopt and enforce any measure necessary for:*

   (a) ***Protection of:-***
   - *(i) public morals.*
   - *(ii) human, animal or plant life or health.*
   - *(iii) patents, trademarks and copyrights and the prevention of deceptive practices.*
   - *(iv) national treasures of artistic, historic or archaeological value*
   - *(v) trade of fissionable material or material from which they are derived*

   (b) ***Prevention of*** *traffic in arms, ammunition and implements of war and use of prison labour.*

   (c) ***Conservation of*** *exhaustible natural resources.*

7. ***Export/import of restricted goods/services:*** *Any goods/services, export or import of which is restricted under ITC(HS) may be exported or imported only in accordance with an Authorization or in terms of a public notice issued in this regard.*

8. ***Terms and Conditions of an authorization:*** *Every Authorization shall be valid for prescribed period of validity and shall contain such terms and conditions as may be specified by Regional Authority (RA), which may include:*
   - *(a) Quantity, description and value of goods;*
   - *(b) Actual User condition;*
   - *(c) Export obligation;*
   - *(d) Value addition to be achieved; and*
   - *(e) Minimum export/ import price.*

9. ***Authorization not a right:*** *No person may claim an Authorization as a right and DGFT or RA shall have power to refuse to grant or renew the same in accordance with provisions of FT(D&R) Act, rules made there under and FTP.*

10. ***Penalty:*** *If an authorization holder violates any condition of such authorization or fails to fulfill*

export obligation, he shall be liable for action in accordance with FT (D&R) Act & rules.

11. ***State Trading:*** *Any goods, import or export of which is governed through exclusive or special privileges granted to State Trading Enterprises [STE(s)], may be imported or exported by STE(s) as per conditions specified in ITC(HS).*

12. ***Importer-Exporter Code (IEC):*** *It is a unique 10 digit code issued by DGFT to Indian companies. IEC is mandatory to export any goods out of India or to import any goods into India unless specifically exempt. PAN is pre-requisite for grant of an IEC. Only one IEC can be issued against a single PAN.*

    An application for IEC is to be made to the nearest RA of DGFT in the 'Aayaat Niryaat Form-ANF2A' and shall be accompanied by prescribed documents. In case of STPI/ EHTP/ BTP units, the Regional Offices of the DGFT having jurisdiction over the district in which the Registered/ Head Office of the STPI unit is located shall issue or amend the IECs.

13. ***Trade with neighboring countries:*** *DGFT may issue instructions or frame schemes as may be required to promote trade and strengthen economic ties with neighboring countries.*

14. ***Transit facility:*** *Transit of goods through India from/ or to countries adjacent to India shall be regulated in accordance with bilateral treaties between India and those countries and will be subject to such restrictions as may be specified by DGFT.*

15. ***Actual user condition:*** *Capital goods, raw materials, intermediates, components, consumables, spares, parts, accessories, instruments and other goods, which are importable without any restriction, may be imported by any person. However, if such imports require an Authorization, actual user alone may import such goods unless actual user condition is specifically dispensed with by RA.*

16. ***Second hand goods:*** *Import of second hand (used) goods, except second hand capital goods, shall be restricted for imports and may be imported only in accordance with the provisions of FTP, ITC(HS), prescribed procedures, public notice or an Authorization in this regard. Import of second hand capital goods, including refurbished/ re-conditioned spares shall be allowed freely. However, second hand personal computers/ laptops, photocopier machines, air conditioners, diesel generating sets will only be allowed against a licence. Import of remanufactured goods shall be allowed only against a licence.*

17. ***Scrap/ Waste in SEZ:*** *be allowed to be disposed in DTA freely subject to payment of customs duty.*

18. ***Import of gifts:*** *Import of gifts shall be permitted where such goods are otherwise freely importable under ITC(HS). In other cases, a Customs Clearance Permit (CCP) shall be required from DGFT. Further, import of samples shall be governed by the prescribed procedures.*

19. ***Passenger Baggage:***
    (a) *Bonafide household goods and personal effects may be imported as part of passenger baggage as per limits, terms and conditions thereof in the Baggage Rules, 1998.*
    (b) *Samples of such items that are otherwise freely importable under FTP may also be imported as part of passenger baggage without an Authorization.*
    (c) *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 an Authorization.*

20. ***Import on export basis:*** *Freely exportable new or second hand capital goods, equipments, components, parts and accessories, containers meant for packing of goods for exports, jigs, fixtures,*

dies and moulds may be imported for export without an Authorization on execution of LUT/ BG with Customs Authorities.

21. ***Re-import of goods repaired abroad:*** *Capital goods, equipments, 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 Authorization.*

22. ***Import of goods used in projects abroad:*** *After completion of projects abroad, project contractors may import, without an Authorization, goods including capital goods used in the project provided they have been used for at least one year.*

23. ***Sale on high seas:*** *may be made subject to FTP.*

24. ***Import under lease financing:*** *Permission of RA is not required.*

25. ***Clearance of goods from customs:*** *Goods already imported/ shipped/ arrived, in advance, but not cleared from customs may also be cleared against an Authorization issued subsequently.*

26. ***Execution of BG(Bank Guarantee) / LUT:*** *Whenever goods are imported duty free or otherwise specifically stated, importer shall execute prescribed LUT/ BG/ Bond with Customs Authority before clearance of goods. In case of indigenous sourcing, Authorization holder shall furnish LUT/ BG/ Bond to RA concerned before sourcing material from indigenous supplier/ nominated agency as per the prescribed procedures.*

27. ***Private/ public bonded warehouses for imports:*** *Private/ public bonded warehouses may be set up in DTA. Any person may import goods, except prohibited items, arms and ammunition, hazardous waste and chemicals and warehouse them in such bonded warehouses. Such goods may be cleared for home consumption whenever required. Customs duty as applicable shall be paid at the time of clearance of such goods. If such goods are not cleared for home consumption within a period of one year or such extended period as permitted, importer of such goods shall re-export the goods.*

28. ***Free exports:*** *All goods may be exported without any restriction except to the extent that such export is 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 Authorization.*

29. ***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.*

30. ***Export of spares:*** *Warranty spares (whether indigenous or imported) of plant, equipment, machinery, automobiles or any other goods, [except those restricted under ITC(HS)] may be exported along with main equipment or subsequently, but within contracted warranty period of such goods subject to approval of RBI.*

31. ***Third party exports:*** *Third-party exports means exports made by an exporter or manufacturer on behalf of another exporter(s). In such cases, export documents such as shipping bills shall indicate name of both manufacturing exporter/manufacturer and third party exporter(s). BRC, GR declaration, export order and invoice should be in the name of third party exporter. Such third party exports shall be allowed under FTP.*

32. ***Export of imported goods:*** *Goods imported, in accordance with FTP, may be exported in same or substantially the same form without an Authorization, provided that an item to be imported or*

exported is not restricted. Exports of such goods imported against payment in freely convertible currency would be permitted against payment in freely convertible currency.

33. ***Export of replacement goods:*** *Goods or parts thereof on being exported and found defective/ damaged may be replaced free of charge by the exporter and such goods shall be allowed clearance by customs authorities, provided that replacement goods are not restricted items.*

34. ***Export of repaired goods:*** *Goods or parts exported and found defective, damaged or otherwise unfit for use may be imported for repair and subsequent re-export. Such goods shall be allowed clearance without an Authorization and in accordance with customs notification.*

35. ***Denomination of export contracts:*** *All export contracts and invoices shall be denominated either in freely convertible currency or Indian rupees but export proceeds shall be realised 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. Additionally, rupee payment through Vostro account must be against payment in free foreign currency by buyer in his non-resident bank account. Free foreign exchange remitted by buyer to his non-resident bank (after deducting the bank service charges) on account of this transaction would be taken as export realization under export promotion schemes of FTP. Contracts for which payments are received through ACU shall be denominated in ACU Dollar. Central Government may relax provisions in this regard in appropriate cases. Export contracts and invoices can be denominated in Indian rupees against EXIM Bank/ Government of India line of credit.*

36. ***Realisation of export proceeds:*** *If an exporter fails to realise export proceeds within time specified by RBI, he shall, without prejudice to any liability or penalty under any law in force, be liable to action in accordance with provisions of FT(D&R) Act, rules.*

37. ***Free movement of export goods:*** *Consignments of items meant for exports shall not be withheld/ delayed for any reason by any agency of Central/ State Government.*

38. ***No seizure of stock:*** *No seizure of stock shall be made by any agency so as to disrupt manufacturing activity and delivery schedule of exports. In exceptional cases, concerned agency may seize the stock on basis of prima facie evidence. However, such seizure should be lifted within 7 days.*

39. ***Export Promotion Councils (EPC);*** *Basic objective of Export Promotion Councils (EPCs) is to promote and develop Indian exports.*

40. ***Registration-cum-Membership Certificate (RCMC):*** *Any person, applying for an Authorization to import/ export, or any other benefit or concession under FTP shall be required to furnish RCMC granted by competent authority. Certificate of Registration as Exporter of Spices (CRES) issued by Spices Board shall be treated as RCMC for the purposes under this Policy.*

41. ***Trade facilitation through EDI initiatives:*** *It is endeavor of Government to work towards greater simplification, standardization and harmonization of trade documents using international best practices. As a step in this direction, a secure EDI Message Exchange System for various documents i.e. Authorisations, Shipping Bills, IEC, application fee, RCMCs has been established with trade partners i.e. Customs, Banks and Export Promotion Councils. These documents are no longer required to be physically filed with DGFT or transmitted physically to the concerned partners. Therefore, it has reduced the transaction cost for the exporters. It is the endeavour of the DGFT to enlarge the scope and domain of EDI exchange continuously.*

42. ***DGCI&S Commercial Trade Data:*** *DGCI&S has put in place a Data Suppression Policy. Transaction level data would not be made publically available to protect privacy. DGCI&S trade data shall be*

made available at aggregate level with a minimum possible time lag in a query based structured format on commercial criteria.

43. ***Fiscal incentives to promote EDI initiatives:*** *With a view to promote use of Information Technology, DGFT will provide fiscal incentives to user community. Deductions in Application Fee would be admissible for applications signed digitally or/ and where application fee is paid electronically through EFT (Electronic Fund Transfer).*

44. ***Regularization of EO default and settlement of customs duty and interest through Settlement Commission:*** *To provide assistance to firms who have defaulted under FTP for reasons beyond their control as also facilitating merger, acquisition and rehabilitation of sick units, it has been decided to empower Settlement Commission in CBEC to decide such cases w.e.f. 1.4.2005.*

45. ***Easing of documentation requirement:*** *DGFT has provided 'on-line' facility for filing applications to obtain various authorizations / IECode. The authorizations are issued and transmitted electronically to Customs for clearance so as to reduce the required documentation.*

46. ***Exemption/ remission from service tax in DTA:*** *For all services which are exported from units in DTA and units in EOU/ EHTP/ STP/ BTP exemption/ remission of service tax levied and related to exports shall be allowed as per the prescribed procedure.*

47. ***Exemption from service tax in SEZ:*** *Units in SEZ shall be exempted from service tax.*

48. ***Exemption from service tax on services received abroad:*** *For all services exported from India, services received/ rendered abroad, wherever possible, shall be exempted from service tax.*

GRIEVANCE REDRESSAL

49. ***DGFT as a facilitator of exports/ imports:*** *DGFT has a commitment to function as a facilitator of exports and imports. Focus is on good governance, which depends on clean, transparent and accountable delivery systems.*

50. ***Citizen's Charter:*** *DGFT has in place a citizen's charter giving time schedules for providing services to clients, and details of committees at different levels.*

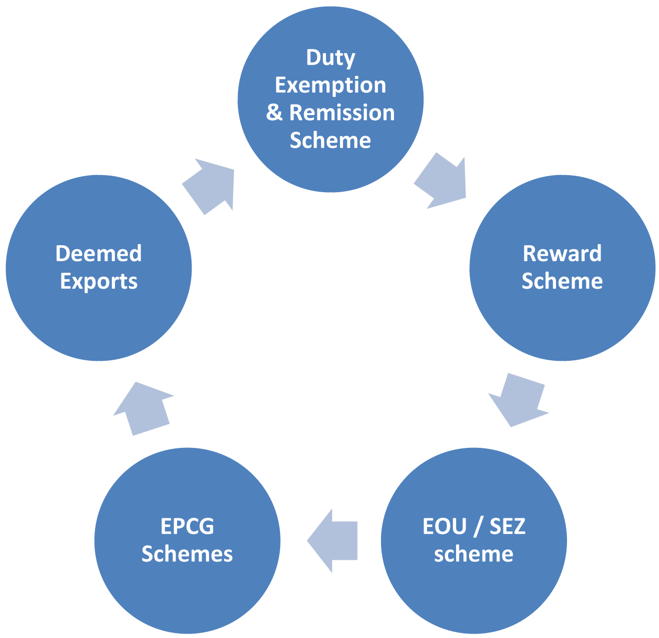
51. ***Grievance Redressal Committee:*** *This scheme has now been abolished & its place a personal hearing scheme by DGFT has been put in place. As a last resort to redress grievances a Foreign trade player's , DGFT has himself has now provided a opportunity of personal hearing, subject to fulfillment of certain conditions.*

52. ***Export of Perishable Agricultural Produce:*** *To reduce transaction & handling costs, a single window system to facilitate export of perishable agricultural produce has been introduced.*

Export Promotion Schemes

Exports of a country play an important role in the economy. Government always endeavors 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 Export Promotion Schemes.

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.



(1) DUTY EXEMPTION & REMISSION SCHEMES

The Duty Exemption and Remission scheme is one of the most important schemes in the Foreign Trade Policy, because it is most widely utilized and remains 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 Authorization Scheme.**

DUTY REMISSION SCHEMES
- **Duty Drawback Scheme.**
- **Duty Entitlement Passbook Scheme.**

Duty exemption schemes: Under duty exemption schemes, exporter can import the inputs duty free for export production. The two duty exemption schemes are as follows:-

(a) Advance Authorization Scheme

(b) Duty Free Import Authorization Scheme (DFIA)

(A) Duty remission schemes: Under duty remission scheme, duty on inputs used in the export product is either replenished or remitted.

The two duty remission schemes are as follows:-

(a) Duty Drawback (DBK) Scheme

(b) Duty Entitlement Passbook (DEPB) Scheme

(A) DUTY EXEMPTION SCHEMES

(1) Advance Authorization Scheme

Under advance authorization scheme, **inputs which are used in the export product can be imported without payment of customs duty.** The goods imported are exempt from BCD, additional customs duty, education cess, anti-dumping duty and safeguard duty. The conditions for duty free imports against physical exports are provided in the notification issued under the customs duty.

(i) Items which can be imported duty free against advance authorization:

- *Inputs, which are physically incorporated in export product (making normal allowance for wastage).*
- *Fuel, Oil, energy, catalyst, which are consumed/utilized to obtain export product.*
- *mandatory spares upto 10% CIF Value of Authorization which are required to be exported/supplied with resultant product.*

(ii) Items which cannot be imported against advance authorization:

- *Prohibited items mentioned in ITC(HS).*
- *Energy*
- *Items reserved for imports by STEs. However, such items can be procured from STEs against ARO or Invalidation letter.*

(iii) Features of Advance Authorization Scheme:

- **Actual User condition with respect to authorization:** Advance Authorization and/ or materials imported thereunder will be with actual user condition. It will not be transferable even after completion of export obligation. However, Authorization holder will have an option to dispose off product manufactured out of duty free inputs once export obligation is completed.
- **If CCR availed, imported inputs, to be used only in manufacture of dutiable goods:** In case where CENVAT credit facility on inputs has been availed for the exported goods, even after completion of export obligation, the goods imported against Advance Authorization shall be utilized only in the manufacture of dutiable goods whether within the same factory or outside (by a supporting manufacturer).
- **Minimum Value Addition 50% for tea and 15% for others:** Advance Authorization necessitates exports with a minimum value addition of 15%, however, for tea it shall be 50%. If some items are supplied free of cost by foreign buyer, its notional value will be considered for purpose of calculating value addition. Exports to SEZ Units/ supplies to Developers/ Co-developers, irrespective of currency of realization, would also be covered.
- Where inputs are supplied free of cost by foreign buyer, in such cases for calculation of value addition notional value shall be taken. Where all inputs are supplied free of cost, exporter shall also have option to follow provision prescribed by DoR.

(iv) Who are eligible for advance authorization: Advance Authorization can be issued either to a manufacturer exporter or merchant exporter tied to supporting manufacturer(s) to import inputs. Such Authorization can also be issued for supplies made to UNO or under Aid Programme of the UN or other multilateral agencies and which are paid for in free foreign exchange.

(v) **Advance Release Order:** *Holder of advance authorization has an option to procure the materials/ inputs from indigenous manufacturer/STE in lieu of direct import against Advance Release Order*

(ARO)/Invalidation letter denominated in free foreign exchange/Indian rupees. However, supplies may be obtained against Authorisation from EOU/EHTP/BTP/STP/SEZ units, without conversion into ARO or Invalidation letter.

(vi) **SION:** Advance Authorizations are issued for inputs and export items given under SION i.e., the import of raw materials is on the basis of standard input output norms. The SION is finalized and quantity allowed to importer will be based on quantity exported.

(vii) **Annual Advance authorization:** Advance Authorization can also be issued for annual requirement. Status Certificate holder and all other categories of exporters having past export performance (in preceding two years) shall be entitled for Advance Authorization for Annual Requirement. 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 licensing year or ` 1 crore, whichever is higher.

In case of an Advance Authorization, drawback shall be available 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). Drawback allowed shall be mentioned in Authorization.

Persons Eligible for Advance Authorization:

(a) Manufacturer Exporter
(b) Merchant Exporter tied to supporting manufacturer to import inputs.

(2) Duty Free Import Authorization (DFIA) Scheme

Scheme: Provisions of Advance Authorization scheme are applicable in case of DFIA. However, these Authorizations shall be issued only for products for which Standard Input and Output Norms (SION) have been notified. DFIA is issued to allow duty free import of inputs, fuel, oil, energy sources, catalyst which are required for production of export product. DFIA is issued with actual user condition.

Duties Exempted: Imports will be exempt from payment of basic customs duty, additional customs duty/ excise duty, education cess, anti-dumping duty and safeguard duty.

Post Export DFIA: Merchant exporter shall be required to mention only name(s) and address(s) of manufacturer(s) of the export product(s). Applicant is required to file application to concerned RA before effecting exports under DFIA.

Pre-export DFIA: shall be issued with actual user condition and shall be exempted from above mentioned duties. In case of actual user DFIA and where CENVAT credit facility on inputs have been availed for the exported goods, even after completion of export obligation, the goods imported against such DFIA shall be utilized in the manufacture of dutiable goods whether within the same factory or outside (by a supporting manufacturer).

Minimum Value Addition of 20%: A minimum 20% value addition shall be required for issuance of such Authorization except for items in gems and jewellery sector.

Transferability: *Once export obligation has been fulfilled, request for transferability of Authorization or inputs imported against it may be made before concerned RA.* Once, transferability is endorsed, Authorization holder may transfer DFIA or duty free inputs, except fuel and any other item(s) notified by DGFT. However, for fuel, import entitlement may be transferred only to companies which have been granted Authorization to market fuel by Ministry of Petroleum and Natural Gas. Once transferability is endorsed, imports/ domestic procurement against Authorization or transfer of imported inputs/ domestically procured inputs shall be subject to payment of applicable additional customs duty/ excise duty.

There is a facility to procure the materials/ inputs from indigenous manufacturer against advance release order, alternatively exporter can obtain goods from indigenous sources on basis of back to back inland letter of credit.

(B) DUTY REMISSION SCHEMES

(1) Duty Drawback (DBK) Scheme – Refer Customs Book

(2) Duty Entitlement Passbook (DEPB) Scheme

This scheme was similar to CENVAT credit scheme. The exporter used to get credit when he exported the goods. The credit was on basis of DEPB rates prescribed. This credit could be utilized for payment of customs duty on imported goods (which are freely importable).

However, this scheme has been abolished with effect from 01.10.2011 as it was said to be non-compliant of WTO requirements.

Re-import of goods exported under duty exemption/remission scheme:

Goods exported under Advance Authorization/ DFIA/ DEPB may be re-imported in same or substantially the same form. The RA which has issued AA / DFIA /DEPB, should also be kept informed of such re-importation within one month of the re-importation. For the purpose of duty exemption and remission schemes, Value Addition (VA) shall be calculated as follows:-

$$\text{Value Addition} = \frac{A - B}{B} \times 100$$

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

B = CIF value of inputs covered by Authorization, plus any other imported materials used on which benefit of DBK is claimed.

(2) REWARD SCHEME

Meaning: *Reward schemes are the schemes which* ***entitle the exporters to duty credit scrips*** *subject to various conditions.*

Following points merit consideration regarding these schemes:-

(1) ***Transferability:*** *Scrips of VKGUY, FMS, FPS and MLFPS are freely transferable and an exporter can claim only one of the four benefits of his choice. However, duty credit scrips under SFIS and SHIS are not freely transferable.*

(2) ***Utilization of Credits:***

- ***For paying Custom duty:*** *Duty credit scrips can be used to pay the custom duty in case of EO default but not for payment of penalty.*
- ***For payment of duty against import under EPCG scheme.***
- ***Clearance of goods from customs bonded warehoused goods***
- ***For paying fee:*** *It can be used to pay the composition fee and application fee under FTP.*

(3) ***Import of Goods:*** *Freely importable as well as restricted items can be imported under duty credit scrips. However, certain specified items namely, garlic, peas, vegetables with a duty of more than 30%, spices, tea, coffee, pepper, oil seeds, natural rubber, some capital goods like irrigation pumps, threshers, tractors, etc. are not permitted to be imported under duty credit scrips.*

(4) ***Validity of Scrip:*** *Duty credit scrip is valid only for 24 months and can be revalidated only if it had expired when the goods were under the custody of customs.*

(5) ***Time Limit for making application for duty credit scrips:***
Application for duty credit scrips shall be made within 12 months from:-
- ***(i)*** *date of export*
- ***(ii)*** *6 months from the date of realization, or*
- ***(iii)*** *3 months from the printing/release of shipping bill whichever is later.*
  For SFIS, last date shall be 12 months from the end of application frequency period.

(6) *Procedural aspects of duty credit scrips are given in Volume-I of Handbook of Procedures.*

(A) STATUS CATEGORY

Objective of Scheme	*With a view to encourage exporters by recognizing their achievement and helping them build marketing infrastructure and expertise required for export promotion, the Govt. has created 5 categories of Status Holders depending on their export turnover (FOB) [FOR in case of deemed exports] in current plus three preceding years. For Export House (EH) status, export performance is necessary in at least two out of four years. These are the Export House (EH), Star Export House (SEH), Trading House (TH), Star Trading House (STH) and Premier Trading House (PTH).*
Benefits to Status Holders	*(i) Licence/ certificate/ permission and custom clearances for both imports and exports on self-declaration basis*

Status Category	Export Performance [FOB/FOR Value in cr.]
Export House (EH)	20
Star Export House (SHE)	100
Trading House	500
Star Trading House (STH)	2,500
Premier Trading House (PTH)	10,000

	(ii) *Fixation of Input Output Norms on priority i.e. within 60 days;* *(iii)* *Exemption from compulsory negotiation of documents through banks. The remittance receipts, however, would continue to channels be received through banking channel.* *(iv)* *100% retention of foreign exchange in EEFC Account* *(v)* *Exemption from furnishing of BG in Schemes under FTP* *(vi)* *SEHs and above shall be permitted to establish export warehouses as per DOR guidelines.* *(vii)* *For PTH, the average level of exports under EPCG Scheme shall be the arithmetic mean of export performance in last 5 years, instead of 3 years.* *(viii)* *Status Holders of specified sectors shall be eligible for Status Holder Incentive scrip.* *(ix)* *Status Holders of Agriculture Sector shall be eligible for Agriculture Infrastructure Incentive Scrip under VKGUY.*
Utilization	
Transferability	

(B) Served From India Scheme (SFIS)	
Objective of Scheme	*Objective of the scheme is to accelerate growth in export of services so as to create a powerful and unique 'Served from India' brand, instantly recognized & respected world over.*
Benefits	*(1) **Eligible service providers:** All Indian Service Providers who have free foreign exchange earning of at least ` 10 Lakh in current financial year shall qualify for Duty Credit Scrip. For Individual Indian Service Providers, minimum free foreign exchange earnings would be ` 5 Lakh. Only service providers of specified services are so eligible.* *(2) **Entitlement to duty credit scrips:** Eligible service providers shall be **entitled to Duty Credit Scrip equivalent to 10% of the net free foreign exchange earned during current financial year.** Free foreign exchange earned through International Credit Cards and other instruments as permitted by RBI for rendering of service shall also be taken into account for computation of Duty Credit Scrip.*
Utilization	***(a)*** *Import of any capital goods including spares, office equipment and professional equipment, office furniture and consumables; that are otherwise freely importable and/ or restricted under ITC(HS). Imports shall relate to any service sector business of applicant. Utilization of Duty Credit scrip earned shall be permitted for payment of duty in case of import of only those vehicles, which are in the nature of professional equipment to the service provider. In case of hotels; clubs having residential facility of minimum 30 room's golf resorts and stand-alone restaurants having catering facilities, Duty Credit scrip may also be used for import of consumables including food items and alcoholic beverages.* ***(b)*** *Entitlement/ goods (imported/ procured) shall be non transferable (except within group company and managed hotels) and be subject to Actual User condition.* ***(c)*** *Utilization of Duty Credit Scrip shall be permitted for payment of excise duty in terms of DoR notification issued in this behalf for procurement from domestic sources, of items permitted for imports under SFIS Duty Credit Scrip*
Transferability	

(C) Vishesh Krishi and Gram Udyog Yojana (VKGUY) -Special Agriculture and Village Industry Scheme	
Objective of Scheme	*The objective of VKGUY is to compensate high transport costs and offset other disadvantages in the exports of specified agricultural products.*
Benefits	*(1) **Eligible exporters:** Exporters of fruits, vegetables, flowers, minor forest produce, dairy, poultry and their value added products, Gram Udyog products and forest based products are **entitled for Duty Credit scrip equivalent to 5% of FOB** value of exports realized in free foreign exchange. However, export of some flowers, fruits, vegetables and other listed products are entitled to an additional duty credit scrip equivalent to **2% of FOB value of exports**; over and above the 5% VKGUY entitlement available.*
Utilization	*This scrip can be utilized for payment of customs duties of all freely importable items as well as for procurement of domestic items without payment of central excise duty as well as service tax. Further it can also be utilized for payment of application fee to DGFT for obtaining any Authorisation. However, this facility is available only to original Duty Credit Scrip Holders.*
Transferability	

(D) Agri- Infrastructure Incentive Scrip	
Eligible Capital Goods	***Capital goods eligible for import:** The following capital goods/ equipments shall be permitted for import under this scheme:* **(a)** *Cold storage units including Controlled Atmosphere (CA) and Modified Atmosphere (MA) Stores, pre-cooling Units and mother storage for onions etc.;* **(b)** *Pack Houses (including facilities for handling, grading, sorting and packaging etc.);* **(c)** *Reefer Van/ Containers; and* **(d)** *Other notified Capital Goods/ Equipments.* *Imported capital goods/ equipment shall be utilized for storage, packing etc. (as in (b) above) and transportation of agricultural products (including agro-processed perishable products).*
Benefits	*(1) **Eligible exporters:** For exports made during a particular year, all Status Holders (having status recognition for the current year) exporting specified products (mainly vegetable products and animal products) shall be eligible for additional benefit of duty credit scrip equal to 10% of FOB value of agricultural exports (including benefits entitled under VKGUY) provided that the total benefits for all status holders put together do not exceed ` 100 crore (i.e., ` 50 crore for each half year) and the prescribed conditions in this regard are satisfied.*
Utilization	
Transferability	***Actual user condition:** This benefit shall be subject to actual user condition and hence non-transferable. However, for import of Cold Chain Equipment, this Incentive Scrip shall be freely transferable amongst Status Holders as well as to Units in the Food Parks*

(E) Focus Market Scheme (FMS)	
Objective of Scheme	*Thus scheme has been introduced with objective to penetrate those markets [primarily Latin America, Africa, Eastern Europe, etc.] which Indian exports have been neglecting (owing to high freight costs and other externalities). However, these markets have bright future prospects. Thus, in order to increase India's export competitiveness in*

	these countries, Focus Market Scheme has been introduced.
Benefits	(1) ***Eligible exporters:*** *Exporters of all products to notified countries shall be entitled for Duty Credit Scrip* ***equivalent to 3% of FOB value of exports (in free foreign exchange) for exports.*** *Export of products to* ***some of the notified countries*** *will be entitled for additional* ***duty credit scrip @ 1% of FOB value of exports (in free foreign*** *exchange).*
Utilization	*This scrip can be utilized for payment of customs duties of all freely importable items as well as for procurement of domestic items without payment of central excise duty.*
Transferability	
Export products/ sectors ineligible for Duty Credit Scrip under FMS scheme	*The following categories of export products/ sectors shall be ineligible for Duty Credit Scrip, under FMS scheme:* ***(a)*** *Supplies made to SEZ units;* ***(b)*** *Service Exports;* ***(c)*** *Diamonds and other precious, semi precious stones;* ***(d)*** *Gold, silver, platinum and other precious metals in any form, including plain and studded Jewellery;* ***(e)*** *Ores and Concentrates, of all types and in all forms;* ***(f)*** *Cereals, of all types;* ***(g)*** *Sugar, of all types and in all forms;* ***(h)*** *Specified Crude/ Petroleum Oil & Crude/ Petroleum based Products covered under ITC(HS); and*

(F) Focus Product Scheme (FPS)

Objective of Scheme	*With a view to promote export of those products which have high export intensity/ employment potential, Focus Product Scheme has been introduced.*
Benefits	(1) ***Eligible exports:*** *Exports of notified products (mainly covering value added leather products & leather footwear, fireworks and stationery items, value added coir products and other focus products) to all countries (including SEZ units) shall be entitled for* ***Duty Credit scrip equivalent to 2% of FOB value of exports (in free foreign exchange).*** *However,* ***Special Focus Product****(s)/sector(s) [mainly covering toys and sports goods and handicraft products],* ***shall be granted Duty Credit Scrip equivalent to 5% of FOB*** *value of exports (in free foreign exchange).* (2) ***Bonus benefits:*** *Following additional benefits have been provided over and above the existing rate for a product/sector for exports:-* (see table below)
Utilization	*This scrip can be utilized for payment of Customs duties of all freely importable items as well as for procurement of domestic items without payment of Central Excise duty*

Focus Product(s)/ Sector(s) notified	*Additional Duty Credit Scrip as % of FOB value of exports (in free foreign exchange)*
Certain specified items of special focus products/sectors namely rubber sole with leather cloth uppers, EPNS ware, handmade lace,	*2%*
Ferrous products, LPG cylinder, hand saws, files, rasps & similar tools, carbon blacks, tower cranes, specified chemicals etc.	*1%*

Transferability	

(G) Market Linked Focus Product Scrip (MLFPS)	
Objective of Scheme	*Specified products exported to specified countries*
Benefits	*are entitled to **2% of the FOB value as Duty Credit Scrip**. This scrip can be utilized for payment of Customs duties of all freely importable items as well as for procurement of domestic items without payment of Central Excise duty.*
Utilization	
Transferability	

(H) Status Holder Incentive Scheme (SHIS)	
Objective of Scheme	*Earlier, Status Holders of certain specified sectors were entitled to duty credit scrip [over and above any duty credit scrip claimed/ availed] at the rate of 1% of the FOB value of exports made during 2009-10, 2010-11, 2011-12 and 2012-13. However, this Scheme is not extended for the year 2013-14 and thus will not be applicable for exports made after 31.03.2013.*
Utilization	
Transferability	

(I) Incremental Exports Incentivisation Scheme on annual basis	
Objective of Scheme	*The objective of this scheme is to incentivize incremental exports.*
Benefits	*(a) Eligible exporters: Under this scheme, an exporter (IEC holder) would be entitled **for duty credit scrip @ 2% on the incremental growth achieved by the IEC holder during the period 01.04.2013 to 31.3.2014 compared to the period from 01.04.2012 to 31.3.2013 on the FOB value of exports.** The calculation of the benefit shall be on annual basis.* *(b) Exports to be excluded while computing entitlement under the scheme: For calculation of export performance/for computation of entitlement under the scheme, export of imported goods or exports made through trans-shipment, export from SEZ/ EOU /EHTP /STPI /BTP/FTWZ, deemed exports, service exports, third party exports, export performance made by one exporter on behalf of other exporter, supplies made to SEZ units, items, export of which requires an export authorisation (except SCOMET), will not be considered.* *This benefit will be over and above any benefit being claimed by the exporter under any other scheme. The duty credit scrip will be freely transferable. Such scrips shall also be eligible for domestic sourcing and for payment of service tax.*
Utilization	
Transferability	

(3) EXPORT PROMOTION CAPITAL GOODS SCHEME (EPCG)

Aim of the Scheme:

EPCG permits exporters to procure capital goods at concessional rate of customs duty/zero customs duty. In return, exporter is under an obligation to fulfill the export obligation.

The license holder can either procure the capital goods (whether used for pre-production, production or post-production) from global market or domestic market. The capital goods can also be imported in CKD/ SKD to be assembled in India. Further, capital goods which can be imported under 'Project Imports' can also be imported under EPCG scheme.

Person eligible to import Capital Goods under EPCG Scheme:

(a) **Eligible exporters under the scheme:** EPCG scheme covers manufacturer exporters with or without supporting manufacturer(s)/ vendor(s), merchant exporters tied to supporting manufacturer(s) and service providers.

(b) **Service Providers:** subject to provisions as mentioned in FTP Handbook with following conditions:-

(i) EPCG licence to be given to the CSP should have a clear endorsement giving the details of the users and the quantum of Export Obligation (EO) which each user would fulfill;

(ii) Such exports will not count towards fulfillment of other specific export obligations; and

(iii) Each one of the users of the CSP apart from the CSP should furnish 100% Bank Guarantee (BG) equivalent to their portion of duty foregone apportioned in terms of quantum of EO to be discharged by them and the BG will be enforced in the event of the obligation not being fulfilled.

(c) **Condition for import of capital goods:** Import of capital goods shall be subject to Actual User condition till export obligation is completed.

Export obligation (EO) under EPCG Scheme:

Meaning: EO 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.

Various EPCG schemes have been discussed as follows:-

(1) Zero duty EPCG Scheme

Time Period: Zero duty EPCG scheme allows import of capital goods (including CKD/SKD thereof as well as computer software systems) for pre-production, production and post-production at zero customs duty. The period for import under the scheme would be 18 months.

This benefit is subject to the condition that export obligation equivalent to 6 times of duty saved on capital goods imported under EPCG scheme is to be fulfilled in 6 years reckoned from Authorization issue-date.

In case countervailing duty (CVD) is paid in cash on imports under EPCG, incidence of CVD would not be taken for computation of net duty saved, provided the same is not CENVATed

(a) **No Zero duty EPCG scheme for exporters availing SHIS:** Zero duty EPCG scheme shall not be available to exporters, who avail in that year, the benefit of SHIS*. In case they have already availed SHIS benefit they would be eligible for Zero Duty Scheme if they surrender or refund SHIS, with applicable interest in case SHIS has been utilized.

However, exporters who have availed benefits under Technology Upgradation Fund Scheme (TUFS) administered by Ministry of Textiles, can also avail the benefit of Zero duty EPCG Scheme.

**Note: SHIS has not been made available for exports made after 31.03.2013*

(b) Capital goods permitted to be imported zero duty under EPCG:

Under EPCG scheme, capital goods can be imported at zero customs duty. Capital goods shall include spares (including refurbished/reconditioned spares), tools, jigs, fixtures, dies and moulds. However, import of restricted items of imports mentioned under ITC(HS) shall only be allowed under EPCG Scheme after approval from EFC at Headquarters.

Capital Goods not permitted to be imported under EPCG Scheme:

Following capital goods are not allowed to be imported under EPCG scheme:-

(a) The import of motor cars, SUVs, all purpose vehicles for hotels, travel agents, or tour transport operators and companies owning/operating golf resorts will not be allowed under the new Zero Duty EPCG Scheme.

(b) Second hand capital goods

(c) Authorization under EPCG Scheme shall not be issued for import of any capital goods (including captive plants and power generator sets of any kind) for:-

- Export of electrical energy (power)
- Supply of electrical energy (power) under deemed exports
- Use of power (energy) in their own unit, and
- Supply/export of electricity transmission services.

Import of Spares, mould etc.

Spares (including refurbished/reconditioned spares), moulds, dies, jigs, fixtures, tools, and refractory for initial lining; for existing plant and machinery (imported earlier, under EPCG or otherwise), shall be allowed to be imported under the EPCG scheme subject to an export obligation equivalent to 50% of the prescribed export obligation (for import of capital goods), to be fulfilled in 6 years, reckoned from Authorization issue date. This would however be subject to the condition that the CIF value of import of the above spares etc. will be limited to 10% of the value of plant and machinery imported under the EPCG scheme. In case of plant and machinery is not imported under the EPCG scheme, CIF value of import of the spares etc. will be limited to 10% of the book value of the plant and machinery. However, this provision will not be applicable for import of spares in respect of capital goods sourced indigenously.

(2) EPCG for Project Imports

Export obligation for such EPCG Authorizations would be **8 times** (6 times for zero duty EPCG scheme) of duty saved. Duty saved would be difference between the effective duty under Project Imports and concessional duty under the EPCG scheme.

(3) EPCG for Retail Sector

In order to create modern infrastructure in retail sector, concessional duty benefits under EPCG scheme has been introduced for import of capital goods required by retailers. Such retailer must have minimum **area of 1000 sq. meters** and shall fulfill export obligation i.e. **8 times of duty saved, in 8 years.**

(4) EPCG authorization for annual requirement

Status Holders, exporters having past export performance (in preceding 2 years) can also avail EPCG Authorization for Annual Requirement. The annual entitlement in terms of duty saved amount shall be upto 50% of FOB value of Physical Export and / or FOR value of Deemed Export, in preceding licensing year.

(5) Provisions for BIFR Units

Any firm/ company registered with BIFR or any firm/ company acquiring a unit, which is under BIFR, **may be allowed EO extension, as per rehabilitation package** prepared by operating agency and approved by BIFR/ Rehabilitation Department of State Government, **upto 12 years if not specified**. These provisions also apply to SSI units as per rehabilitation scheme of concerned State Government.

(6) EPCG for Agro units

LUT/ Bond or **15% BG may be given for EPCG Authorization granted to units in Agri Export Zones** provided EPCG Authorization is taken for export of notified primary agricultural products or their value added variants.

(7) 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 benefit under FTP. Such domestic sourcing shall also be permitted from EOUs and these supplies shall be counted for purpose of fulfillment of positive NFE by said EOU.

(8) Fixation of Export Obligation

Initially, only the exports made in freely convertible currency were being accepted for discharge of export obligation. Later, the condition has been modified to accept deemed exports also for discharge of export obligation.
In case of direct imports, export obligation shall be reckoned with reference to actual duty saved amount. In case of domestic sourcing, export obligation shall be reckoned with reference to notional Customs duties saved on FOR value.

(9) Technological Upgradation of exisiting EPCG Machinery

EPCG Authorization holders can opt for 'Technological Upgradation' of existing capital goods imported under EPCG Authorization(s).

Conditions governing are as under:

- **(a)** Minimum time period for applying for 'Technological upgradation' is 4 years from earlier EPCG Authorization issue-date.
- **(b)** Minimum exports made must be 50% of total export obligation imposed on earlier EPCG Authorization(s).
- **(c)** EO would be re-fixed such that
  - (i) total EO shall be sum total of 6 times of duty saved of earlier EPCG and the new one,&
  - (ii) EOP is 6 years from EPCG authorization issue-date under this Para.
- **(d)** Facility for technological up-gradation shall be available only once and the minimum imports to be made shall be at least 10% of the existing investment in plant and machinery by applicant.
- **(e)** Capital Goods to be imported must be new and technologically superior to earlier CG (to be certified by Chartered Engineer).

(10) Incentives for Fast Track Companies

To incentivize fast track companies with a view to accelerate exports, 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 by RA concerned.***

(11) EPCG for Green Technology Product

For exporters of Green Technology Products [namely waste heat boiler, wind turbine, water treatment plants, bio-mass boiler, wind mill, solar cells, etc.], specific EO shall be 75% of EO stipulated under zero duty EPCG Scheme. Average EO remains unchanged.

(12) Post Export EPCG Duty Credit Scrip

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).

<u>Salient features of the schemes are as follows:-</u>

- Specific EO under this scheme shall be 85% of the applicable specific EO, if the imports of such capital goods had taken benefit of duty exemption. Average EO remains unchanged.
- Duty remission shall be in proportion to the EO fulfilled.
- These Duty Credit Scrip(s) can be used for payment of applicable custom duties for imports and applicable excise duties for domestic procurement.
- All provisions of the existing EPCG Scheme shall apply insofar as they are not inconsistent with this scheme.

(13) Reduced EO for North East Region and J&K

For units located in Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura and Jammu & Kashmir, specific EO shall be 25% of the EO stipulated under zero duty EPCG Scheme. However, there shall be no change in average EO.

(4) EOU, EHTP, STP, BTP & SEZ SCHEMES

EOU, EHTP, STP AND BTP

Units undertaking to export their entire production of goods and services (except permissible sales in DTA), may be set up under the Export Oriented Unit (EOU) Scheme, Electronics Hardware Technology Park (EHTP) Scheme, Software Technology Park (STP) Scheme or Bio-Technology Park (BTP) Scheme for manufacture of goods, including repair, re- making, reconditioning, re-engineering and rendering of services. Trading units are not covered under these schemes. An EOU/ EHTP/ STP/ BTP unit may export all kinds of goods and services except items that are prohibited in ITC(HS). EOU/ BTP/ EHTP/ STPs should start production within 3 years from the date of grant of Letter of Permission (LoP)/ Letter of Intent (LoI).
Procurement and supply of export promotion material like brochure/ literature, pamphlets, hoardings, catalogues posters etc. upto a maximum value limit of 1.5% of FOB value of previous years exports shall be allowed.

An EOU/ EHTP/ STP/ BTP unit may import and/ or procure, from DTA or bonded warehouses in DTA/ international exhibition held in India, without payment of duty, all types of goods, including capital goods, required for its activities, provided they are not prohibited items of import in the ITC(HS). Units shall also be permitted to import goods including capital goods required for approved activity, free of cost or on loan/ lease from clients. Import of capital goods will be on a self certification basis. Goods imported by a unit shall be with actual user condition and shall be utilized for export production. Second hand capital goods, without any age limit, may also be imported duty free. 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.

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 following conditions:

- ***(i)*** *The unit should obtain permission from the jurisdictional Deputy/ Assistant Commissioner of Customs or Central Excise, for entering into transaction of 'Sale and Lease Back of Assets', and submit full details of the goods to be sold and leased back and the details of NBFC;*
- ***(ii)*** *The goods sold and leased back shall not be removed from the unit's premises;*
- ***(iii)*** *The unit should be NFE positive at the time when it enters into sale and lease back transaction with NBFC;*
- ***(iv)*** *A joint undertaking by the unit and NBFC should be given to pay duty on goods in case of violation or contravention of any provision of the notification under which these goods were imported or procured, read with the Customs Act, 1962 or the Central Excise Act, 1944, and that the lien on the goods shall remain with the Customs/ Central Excise Department, which will have first charge over the said goods for recovery of sum due from the unit to Government under provision of Section 142(b) of the Customs Act, 1962 read with the Customs (Attachment of Property of Defaulters for Recovery of Govt. Dues) Rules, 1995.*

EOU/ EHTP/ STP/ BTP units may import/ procure from DTA, without payment of duty, certain specified goods for creating a central facility. Software EOU/ DTA units may use such facility for export of software.
An EOU engaged in agriculture, animal husbandry, aquaculture, floriculture, horticulture, pisciculture, viticulture, poultry or sericulture may be permitted to remove specified goods in connection with its activities for use outside bonded area.
Gems and jewellery EOUs may source gold/ silver/ platinum through nominated agencies on loan/ outright purchase basis. Units obtaining gold/ silver/ platinum from nominated agencies, either on loan basis or outright purchase basis shall export gold/ silver/ platinum within 90 days from date of release.
EOU/ EHTP/ STP/ BTP unit shall be a positive net foreign exchange earner except for sector specific provision as specified, where a higher value addition shall be required. NFE Earnings shall be calculated cumulatively in blocks of five years, starting from commencement of production. Whenever a unit is

unable to export due to prohibition/ restriction imposed on export of any product mentioned in LoP, the five year block period for calculation of NFE earnings may be suitably extended by BoA.

Only projects having a minimum investment of ` 1 Crore in plant & machinery shall be considered for establishment as EOUs. However, this shall not apply to existing units and units in EHTP/ STP/ BTP, Handicrafts/ Agriculture/ Floriculture/ Aquaculture/ Animal Husbandry/ Information Technology, Services, Brass Hardware and Handmade jewellery sectors. BoA may also allow establishment of EOUs with a lower investment criteria.
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.

DTA Sale of Finished Products/ Rejects/ Waste/ Scrap/ Remnants and By-products

(1) 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 concessional duties. Within entitlement of DTA sale, unit may sell in DTA, its products similar to goods which are exported or expected to be exported from units. However, units which are manufacturing and exporting more than one product can sell any of these products into DTA, upto 90% of FOB value of export of the specific products, subject to the condition that total DTA sale does not exceed the overall entitlement of 50% of FOB value of exports for the unit, as stipulated above.

No DTA sale at concessional duty 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.

(2) 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.

(3) Gems and jewellery units may sell upto 10% of FOB value of exports of the preceding year in DTA, subject to fulfillment of positive NFE. In respect of sale of plain jewellery, recipient shall pay concessional rate of duty as applicable to sale from nominated agencies. In respect of studded jewellery, duty shall be payable as applicable.

(4) Rejects within an overall limit of 50% may be sold in DTA on payment of duties as applicable, on prior intimation to Customs authorities. Such sales shall be counted against DTA sale entitlement. Sale of rejects upto 5% of FOB value of exports shall not be subject to achievement of NFE.

(5) 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.

(6) There shall be no duties/ taxes on scrap/ waste/ remnants, in case same are destroyed with permission of Customs authorities.

(7) By-products included in LoP may also be sold in DTA subject to achievement of positive NFE, on payment of applicable duties, within the overall entitlement. Sale of by-products by units not entitled to DTA sales, or beyond entitlements shall also be permissible on payment of full duties.

(8) EOU/ EHTP/ STP/ BTP units may sell finished products, except pepper and pepper products and marble, which are freely importable under FTP in DTA, under intimation to DC, against payment of full duties, provided they have achieved positive NFE. An amount equal to Anti-dumping duty under section 9A of the CTA, 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.

(9) In case of units manufacturing electronics hardware and software, NFE and DTA sale entitlement shall be reckoned separately for hardware and software.

(10) In case of DTA sale of goods manufactured by EOU/ EHTP/ STP/ BTP, where basic duty and CVD is nil, such goods may be considered as non-excisable for payment of duty.

(11) In case of new EOUs, advance DTA sale will be allowed not exceeding 50% of its estimated exports for first year, except pharmaceutical units where this will be based on its estimated exports for first two years.

(12) Units in Textile and Granite sectors shall have an option to sell goods into DTA, on payment of an amount equal to aggregate of duties of excise leviable under section 3 of the Central Excise Act, 1944 or under any other law for the time being in force, on like goods produced or manufactured in India other than in an EOU, subject to the condition that they have not used duty paid imported inputs in excess of 3% of the FOB value of exports of the preceding year and they have achieved positive NFE. Once this option is exercised, the unit will not be allowed to import any duty free inputs for any purpose.

Other Supplies in DTA

Following supplies effected from EOU/ EHTP/ STP/ BTP units to DTA will be counted for fulfillment of positive NFE:

- **(a)** Supplies affected 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 Handbook of Procedures), cannot 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 affected 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 provisions of FTP.
- **(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.
- **(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, (hereinafter referred to as PDS Scheme) subject to prescribed conditions:
  - **(i)** Only supply of such quantity of LPG would be eligible for which Ministry of Petroleum and Natural Gas declines permission for export and requires the LPG to be cleared in DTA; and
  - **(ii)** The Ministry of Finance by a notification has permitted duty free imports of LPG for supply under the aforesaid PDS Scheme.

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.

Entitlement for supplies from the DTA

(a) Supplies from DTA to EOU/ EHTP/ STP/ BTP units will be regarded as *"deemed exports"* and DTA supplier shall be eligible for relevant entitlements

(b) Suppliers of precious and semi-precious stones, synthetic stones and processed pearls from DTA to EOU shall be eligible for grant of Replenishment Authorizations at rates and for specified items.

(c) In addition, EOU/ EHTP/ STP/ BTP units shall be entitled to following:

- Reimbursement of Central Sales Tax (CST) on goods manufactured in India. Interest @ 6% will be payable on delay refund of CST, if the case is not settled within 30 days of receipt of complete application.
- Exemption from payment of Central Excise Duty on goods procured from DTA on goods manufactured in India.
- Reimbursement of duty paid on fuel procured from domestic oil companies/ Depots of domestic oil Public Sector Undertakings as per drawback rate notified by DGFT from time to time. Reimbursement of additional duty of excise levied on fuel under the Finance Acts would also be admissible.
- CENVAT Credit on service tax paid.

Inter Unit Transfer

(a) Transfer of manufactured goods from one EOU/ EHTP/ STP/ BTP unit to another EOU/ EHTP/ STP/ BTP unit is allowed with prior intimation to concerned DC and 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 following procedure prescribed in SEZ Rules, 2006.

(b) 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.

(c) Goods supplied by one unit of EOU/ EHTP/ STP/ BTP to another unit shall be treated as imported goods for second unit for payment of duty, on DTA sale by second unit.

Sub-Contracting

(a) (i) EOU/ EHTP/ STP/ BTP units, including gems and jewellery units, may on the basis of annual permission from Customs authorities, subcontract production processes to DTA through job work which may also involve change of form or nature of goods, through job work by units in DTA.
(ii) These units may subcontract upto 50% of overall production of previous year in value terms in DTA with permission of Customs authorities.

(b) (i) EOU may, with annual permission from Customs authorities, undertake job work for export, on behalf of DTA exporter, provided that goods are exported directly from EOU and export document shall jointly be in name of DTA/ EOU. For such exports, DTA units will be entitled for refund of duty paid on inputs by way of brand rate of duty drawback.

(ii) Duty free import of goods for execution of export order placed on EOU by foreign supplier on job work basis, would be allowed subject to condition that no DTA clearance shall be allowed.

(iii) Subcontracting of both production and production processes may also be undertaken without any limit through other EOU/ EHTP/ STP/ BTP/ SEZ units, on the basis of records maintained in unit.

(iv) EOU/ EHTP/ STP/ BTP units may subcontract part of production process abroad and send intermediate products abroad as mentioned in LoP. No permission would be required when goods are sought to be exported from subcontractor premises abroad. When goods are sought to be brought back, prior intimation to concerned DC & Customs authorities shall be given.

(c) Scrap/ waste/ remnants generated through job work may either be cleared from job worker's premises on payment of applicable duty on transaction value or destroyed in presence of Customs/ Central Excise authorities or returned to unit. Destruction shall not apply to gold, silver, platinum, diamond, precious and semi precious stones.

Sale of Unutilized Material

(a) 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 off 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.

(b) Capital goods and spares that have become obsolete/ surplus, may either be exported, transferred to another EOU/ EHTP/ STP/ BTP/ SEZ unit or disposed off in DTA on payment of applicable duties.

(c) In case of textile sector, disposal of left over material/ fabrics upto 2% of CIF value or quantity of import, whichever is lower, on payment of duty on transaction value, may be allowed, subject to certification of Central Excise/ Customs officers that these are leftover items.

(d) Disposal of used packing material will be allowed on payment of duty on transaction value.

Reconditioning/ Repair and Re-engineering

EOU/ EHTP/ STP/ BTP units may be set up with approval of BoA to carry out reconditioning, repair, remaking, testing, calibration, quality improvement, up-gradation of technology and re- engineering activities for export in foreign currency.
Replacement/ Repair of Imported/ Indigenous Goods

(a) General provisions of FTP relating to export/ import of replacement/ repair of goods would also apply equally to EOU/ EHTP/ STP/ BTP units. Cases not covered by these provisions shall be considered on merits by DC.

(b) Goods sold in DTA and not accepted for any reasons, may be brought back for repair/ replacement, under intimation to concerned jurisdictional Customs & Excise authorities.

(c) Goods or parts thereof, on being imported/ indigenously procured and found defective or otherwise unfit for use or which have been damaged or become defective subsequently, may be returned and replacement obtained or destroyed.

Exit from EOU Scheme

(a) With approval of DC, an EOU may opt out of scheme. Such exit shall be subject to payment of Excise and Customs duties and industrial policy in force.

(b) If unit has not achieved obligations, it shall also be liable to penalty at the time of exit.

(c) In the event of a gems and jewellery unit ceasing its operation, gold and other precious metals, alloys, gems and other materials available for manufacture of jewellery, shall be handed over to an agency nominated by DoC, at price to be determined by that agency.

(d) An EOU/ EHTP/ STP/ BTP unit may also be permitted by DC to exit from the scheme at any time on payment of duty on capital goods under the prevailing EPCG Scheme for DTA Units. This will be subject to fulfillment of positive NFE criteria under EOU scheme, eligibility criteria under EPCG scheme and standard conditions as prescribed.

(e) Unit proposing to exit out of EOU scheme shall intimate DC and Customs and Central Excise authorities in writing. Unit shall assess duty liability arising out of debonding and submit details of such assessment to Customs and Central Excise authorities.

(f) In cases where a unit is initially established as DTA unit with machines procured from abroad after payment of applicable import duty, or from domestic market after payment of excise duty, and unit is subsequently converted to EOU, in such cases removal of such capital goods to DTA after debonding would be without payment of duty.

(g) An EOU/ EHTP/ STP/ BTP unit may also be permitted by DC to exit under Advance Authorization as a onetime option. This will be subject to fulfillment of positive NFE criteria.

Conversion

(a) Existing DTA units may also apply for conversion into an EOU/ EHTP/ STP/ BTP unit, and Income Tax benefits under Section 10A and 10B will be available for plant, machinery and equipment already installed.

(b) Existing EHTP/ STP units may also apply for conversion/ merger to EOU unit and vice- versa. In such cases, units will remain in bond and avail exemptions in duties and taxes as applicable.

Export through Exhibitions/ Export Promotion Tours/ showrooms abroad/ Duty Free Shops

EOU/ EHTP/ STP/ BTP are permitted to:

- **(i)** Export goods for holding/ participating in exhibitions abroad with permission of DC.
- **(ii)** Personal carriage of gold/ silver/ platinum jewellery, precious, semi-precious stones, beads and articles.
- **(iii)** Export goods for display/ sale in permitted shops set up abroad.
- **(iv)** Display/ sell in permitted shops set up abroad, or in showrooms of their distributors/ agents.
- **(v)** Set up showrooms/ retail outlets at International Airports.

Export/ Import by Post/ Courier

Goods including free samples may be exported/ imported by airfreight or through foreign post office or through courier, as per Customs procedure.

Revival of Sick Units

Subject to a unit being declared sick by appropriate authority, proposals for revival of the unit or its takeover may be considered by BoA.

Approval of EHTP/ STP

In case of units under EHTP/ STP schemes, necessary approval/ permission under relevant paragraphs of this Chapter shall be granted by officer designated by Ministry of Communication and Information Technology, Department of Information Technology, instead of DC, and by Inter-Ministerial Standing Committee (IMSC) instead of BoA.

Approval of BTP

Bio-Technology Parks (BTP) would be notified by DGFT on recommendations of Department of Biotechnology. In case of units in BTP, necessary approval/ permission will be granted by designated officer of Department of Biotechnology.

SPECIAL ECONOMIC ZONES

Introduction:

A Special Economic Zone (SEZ) is a geographically bound zone where the economic laws in matters related to export and import are more broadminded and liberal as compared to other parts of the country.

Features of Special Economic Zones (SEZ):

(i) *SEZ is deemed as a **separate island** outside India where Inputs, Capital Goods and Input Services can be obtained without payment of duties & taxes such as Customs, Excise, CST, VAT & Service Tax.*

(ii) *For the sheer objective of ensuring consistent development of SEZ, an exclusive Act namely Special Economic Zone Act 2005(hereinafter abbreviated as SEZ Act 2005) was passed. The twin prime purposes of foregoing Act are to ensure smooth operations in SEZ as well as Single Window Clearance with a view to set up either an SEZ or a Unit in SEZ.*

(iii) *SEZ may be set up in the public, private or joint sector OR by the CG or SG, jointly or severally [section 3(1) of SEZ Act 2005]*

(iv) *Any goods imported directly from outside India or procured from within India shall be authorized for admission to the SEZ. **Goods admitted to SEZ are exempt from duties of customs subject to certain conditions.***

(v) *Any goods admitted to SEZ from DTA shall be chargeable to export duties at such rates as are leviable on such goods when exported, subject to any rules made in this behalf. Any goods removed from the SEZ to DTA shall be chargeable to the duties of customs including antidumping, countervailing and safeguard duties as leviable on such goods when imported.*

(vi) *SEZ could be set up for manufacturing goods, rendering of services, production, processing, assembling, trading, repair, re-making, re-conditioning and re-engineering, making of gold, silver and other articles of precious metals and jewellery.*

(vii) *It shall be under the administrative control of the Development Commissioner. All activities in the SEZ, unless otherwise specified, shall be carried out through self certification procedure.*

(viii) *Goods going into SEZ from DTA shall be treated as deemed exports. At the same time, goods coming from SEZ to DTA shall be treated as import of goods.*

Objectives of the SEZ Act are:

(a) Export of goods and services without taxes
(b) Generation of additional economic activity
(c) Promotion of exports of goods and services;
(d) Promotion of investment from domestic and foreign sources;
(e) Creation of employment opportunities;
(f) Development of infrastructure facilities;
(g) Providing exemption from duties and taxes on procurement;
(h) Single window clearance it is expected that this will trigger a large flow of foreign and domestic investment in SEZs, in infrastructure and productive capacity, leading to generation of additional economic activity and creation of employment opportunities.

SEZ Rules provide for:

(a) Simplified procedures for development, operation, and maintenance of the Special Economic Zones and for setting up units and conducting business in SEZs;
(b) Single window clearance for setting up of an SEZ;
(c) Single window clearance for setting up a unit in a Special Economic Zone;
(d) Single Window clearance on matters relating to Central as well as State Governments;
(e) Simplified compliance procedures
(f) Maintenance of documents with self certification

Simplified compliance procedures and documentation with an emphasis on self certification

The incentives and facilities offered to the units in SEZs for attracting investments into the SEZs, including foreign investment are:

(a) Duty free import/ domestic procurement of goods for development, operation and maintenance of SEZ units.
(b) 100% Income Tax exemption on export income for SEZ units under Section 10AA of the Income Tax Act for first 5 years, 50% for next 5 years thereafter and 50% of the ploughed back export profit for next 5 years.
(c) Exemption from minimum alternate tax under section 115JB of the Income Tax Act.
(d) External commercial borrowing by SEZ unit's upto US $ 500 million in a year without any maturity restriction through recognized banking channels.
(e) Exemption from Central Sales Tax.
(f) Exemption from Service Tax.
(g) Single window clearance for Central and State level approvals.
(h) Exemption from State sales tax and other levies as extended by the respective State Governments.
(i) Exemption to capital gains from transfer of capital assets
(j) Exemption from dividend distribution tax

Measures to revise investors' interest in SEZ

A package of measures has been formulated in the Annual Supplement of 18.04.2013 to revive investors' interest in SEZ and to boost exports. The main and salient features are as follows:

(i) Reduction in minimum land area requirement.
(ii) Graded Scale for minimum land criteria.
(iii) Sect oral Broad banding
(iv) Treatment of vacancy of Land
(v) Special considerations on requirement of land for IT Sector
(vi) An Exit Policy is now in place to permit transfer of ownership of SEZ Units including sale. These provisions will be incorporated in an amendment to the SEZ Rules 2006 shortly.

(5) DEEMED EXPORTS

Deemed Exports refer to specified transactions in which goods manufactured in India are supplied to specified projects or to specific categories of consumers. In deemed exports, goods supplied do not leave the country but payment for such supplies are received either in Indian rupees or in free foreign exchange by the recipient of the goods. The objective of deemed exports is to ensure that the domestic suppliers are not in disadvantageous position vis-à-vis foreign suppliers in terms of the fiscal concessions. The underlying theory is that foreign exchange saved must be treated at par with foreign exchange earned by placing Indian manufacturers on par with foreign suppliers. 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 Supplies

Specified categories of supplies made by contractor/ sub-contractor shall be regarded as 'Deemed Exports' provided the goods are manufactured in India:

- **(a)** Supply of goods against Advance Authorization/ Advance Authorization for Annual Requirement/ DFRC/ DFIA under Duty Exemption/ Remission Scheme;
- **(b)** Supply of goods to Export Oriented Units (EOUs) or units located in or Software Technology Parks (STPs) or to Electronic Hardware Technology Parks (EHTPs) or Bio Technology Parks (BTP)
- **(c)** Supply of capital goods to holders of licences under the Export Promotion Capital Goods (EPCG) Scheme;
- **(d)** Supply of goods to projects financed by multilateral or bilateral agencies/ funds as notified by the Department of Economic Affairs, Ministry of Finance under International competitive bidding in accordance with the procedures of those agencies/ funds, where the legal agreements provide for tender evaluation without including the customs duty. List of agencies/ Funds has been notified for this purpose in the Hand Book of Procedures. Further, supply and installation of goods (single responsibility turnkey projects) to projects financed by multilateral or bilateral agencies/ funds as notified by DEA, MOF under ICB, in accordance with the procedures of these agencies/ funds, which bids may have been invited and evaluated on the basis of delivered duty paid prices for goods manufactured abroad.
- **(e)** Supply of goods to any project or purpose in respect of which the Ministry of Finance, by a notification, permits the import of such goods at zero customs duty;
- **(f)** Supply of marine freight containers by 100% EOU (Domestic freight containers- manufacturers) provided the said containers are exported out of India within 6 months or such period as permitted by the custom authorities;
- **(g)** Supply to projects funded by UN Agencies;
- **(h)** Supply of goods to nuclear projects through competitive bidding as opposed to international competitive bidding.

Benefits of deemed export shall be available under point (d) and (e) only if the supply is made under procedure of International Competitive Bidding. However, with regard to mega power projects, the requirement of ICB would not be mandatory, if the requisite quantum of power has been tied up through *tariff based competitive bidding or if the project has been awarded through tariff based competitive bidding.*

Benefits for Deemed Exports

Subject to specific conditions as attached to different categories of Deemed Export supplies, the suppliers are eligible for any or all of the following benefits in respect of manufacture and supply of goods qualifying as deemed exports:

- **a.** Advance Authorisation/ Advance Authorisation for Annual requirement/ DFIA
- **b.** Deemed Export Drawback
- **c.** Refund of terminal excise duty will be given if exemption is not available. Exemption from TED is available to the following categories of supplies:
  - **(i)** Supplies against ICB;
  - **(ii)** Supplies of intermediate goods, against invalidation letter, made by an Advance Authorisation holder to another Advance Authorisation holder; and
  - **(iii)** Supplies of goods by DTA unit to EOU / EHTP / STP / BTP unit

Thus such categories of supply which are exempt ab initio will not be eligible to receive refund of TED.

Eligibility for Refund of Terminal Excise Duty/ Drawback

Refund of Terminal Excise duty or Central Excise duty paid on inputs/ components will be available only when CENVAT credit/ rebate of the same have not been availed by the recipient of such goods. Similarly, supplies will be eligible for deemed export drawback on Central Excise paid on inputs, provided CENVAT credit facility/ rebate has not been availed by the applicant.

Supplies to be made by Main/ Sub-contractor

In all the cases, goods shall be supplied directly to concerned agency/ person. However, goods supplied by sub-contractor to contractor shall also be eligible for deemed exports benefits provided the sub-contractor is indicated either originally or subsequently in the contract and payment certificate is issued by the project authority in the name of the sub-contractor.

Supply to Non Mega Power Projects shall not be entitled to any Deemed Exports Benefits

Earlier, supplies to non mega power projects were entitled to benefits for Deemed Exports under Advance Authorisation/ Advance Authorisation for annual requirement/ DFIA. However, now supply to non mega power projects shall not be entitled to any deemed export benefit.

Penalties

In case any exporter or importer in the country violates any provision of the Foreign Trade Policy or for that matter any other law in force, like 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.

Glossary (Acronyms)

Acronym	Explanation	Acronym	Explanation
AA	Advance Authorisation	DoR	Department of Revenue
ACC	Assistant Commissioner of Customs	DoT	Department of Tourism
ACU	Asian Clearing Union	DTA	Domestic Tariff Area
AEZ	Agri Export Zone	EDI	Electronic Data Interchange
ANF	Aayaat Niryaat Form	EEFC	Exchange Earners' Foreign Currency
ARO	Advance Release Order	EFC	Exim Facilitation Committee
ASIDE	Assistance to States for Infrastructure Development of Exports	EFT	Electronic Fund Transfer
BG	Bank Guarantee	EH	Export House
BIFR	Board of Industrial and Financial Reconstruction	EHTP	Electronic Hardware Technology Park
BOA	Board of Approval	EIC	Export Inspection Council
BOT	Board of Trade	EO	Export Obligation
BRC	Bank Realisation Certificate	EOP	Export Obligation Period
BTP	Biotechnology Park	EOU	Export Oriented Unit
CBEC	Central Board of Excise and Customs	EPC	Export Promotion Council
CCP	Customs Clearance Permit	EPCG	Export Promotion Capital Goods
CEA	Central Excise Authority	EPO	Engineering Process Outsourcing
CEC	Chartered Engineer Certificate	FDI	Foreign Direct Investment FIEO
CIF	Cost, Insurance & Freight	FIRC	Foreign Exchange Inward Remittance Certificate
CIS	Commonwealth of Independent States	FMS	Focus Market Scheme
CoD	Cash on Delivery	FOB	Free On Board
CoO	Certificate of Origin	FPS	Focus Product Scheme
CVD	Countervailing Duty	FT (D&R) Act	Foreign Trade (Development & Regulation) Act, 1992
DA	Document against Acceptance	FTDO	Foreign Trade Development Officer
DoBT	Department of Bio Technology	FTP	Foreign Trade Policy
DC	Development Commissioner	GATS	General Agreement on Trade in Services
DEPB	Duty Entitlement Pass Book	GRC	Grievance Redressal Committee
DFIA	Duty Free Import Authorisation	HACCP	Hazard Analysis and Critical Control Process
DFRC	Duty Free Replenishment Certificate	HBP v1	Handbook of Procedures (Vol.1)
DGCI&S	Director General, Commercial Intelligence & Statistics.	HBP v2	Handbook of Procedures (Vol.2)
DGFT	Director General of Foreign Trade	ICD	Inland Container Depot
DIPP	Department of Industrial Policy & Promotion	ICM	Indian Commercial Mission
DoC	Department of Commerce	IEC	Importer Exporter Code
DoE	Department of Electronics	ISO	International Standards Organisation
DoIT	Department of Information Technology	ITC(HS)	Indian Trade Classification (Harmonised System)

Classification for Export & Import Items			
ITPO	India Trade Promotion Organisation	RCMC	Registration-cum-Membership Certificate
LoC	Line of Credit	RSCQC	Regional Sub-Committee on Quality Complaints
LoI	Letter of Intent	S/B	Shipping Bill
LoP	Letter of Permit	SEH	Star Export House
LUT	Legal Undertaking	SEI CMM	Software Engineers Institute's Capability Maturity Model
MAI	Market Access Initiative	SEZ	Special Economic Zone
MDA	Market Development Assistance	SFIS	Served from India Scheme
MEA	Ministry of External Affairs	SIA	Secretariat for Industrial Assistance
MoD	Ministry of Defence	SION	Standard Input Output Norms
MoF	Ministry of Finance	SSI	Small Scale Industry
NC	Norms Committee	STE	State Trading Enterprise
NFE	Net Foreign Exchange	STH	Star Trading House
NOC	No Objection Certificate	STP	Software Technology Park
PRC	Policy Relaxation Committee	TEE	Towns of Export Excellence
PTH	Premier Trading House	TH	Trading House
PSU	Public Sector Undertaking	TRA	Telegraphic Release Advice
R&D	Research and Development	TRQ	Tariff Rate Quota
RA	Regional Authority	VA	Value Addition
RBI	Reserve Bank of India	VKGUY	Vishesh Krishi and Gram Udyog Yojana
REP	Replenishment	WHOGMP	World Health Organisation Good Manufacturing Practices

☞ IMPORTANT AREAS

➔ **BASICS OF FTP –** *Meaning, objective, administration, linkage with tax laws, Scope, BOT*

➔ **EXPORT PROMOTION SCHEME –** *Advance Authorization, REWARD Scheme (Status Holder, FMS, FPS, SFIS), EPCG*

➔ **EOU –** *Inter Unit Transfer, Sub Contracting, Exit from EOU Scheme*

➔ **SEZ –** *Features & Objective*

➔ **Deemed Export –** *Basics*

ALL THE BEST…!!!

PRACTICE MANUAL

Question 1:

What do you understand by the term 'Foreign Trade Policy' (FTP)? Which is the governing legislation for FTP? Which Government authorities administer FTP in India?

Ans: Refer pg 1 & 2

Question 2

Briefly explain as to how FTP is linked with excise and customs laws.

Ans: Refer pg 3.

Question 3

Enumerate the various matters in respect of which policies and regulations are framed under FTP.

Ans: Refer pg 3 (Scope of FTP)

Question 4

Briefly explain the salient features of the Customs Act, 1962 relating to Special Economic Zones.

Ans: Refer pg 28

Question 5

With reference to the provisions of FTP 2009-14, discuss giving reasons whether the following statements are true or false:

(i) If any doubt arises in respect of interpretation of any provision of FTP, the said doubt should be forwarded to CBEC, whose decision thereon would be final and binding.

(ii) Authorization once claimed by an importer cannot be refused by DGFT.

(iii) IEC is a unique 12 digit PAN based alphanumeric code issued by DGFT to Indian companies.

(iv) Waste generated during manufacture in an SEZ Unit can be freely disposed in DTA on payment of applicable customs duty, without any authorization.

(v) A Customs Clearance Permit (CCP) is required from DGFT in certain specific cases of import of gifts.

Answer

(i) False. *If any question or doubt arises in respect of interpretation of any provision of the FTP, said question or doubt ought to be referred to DGFT whose decision thereon would be final and binding.*

(ii) False. *No person may claim an Authorization as a right and DGFT shall have power to refuse to grant or renew the same in accordance with provisions of FT(D&R) Act, rules made thereunder and FTP.*

(iii) False. *IEC is a unique 10 digit code issued by DGFT to Indian companies.*

(iv) True. *Any waste or scrap or remnant including any form of metallic waste & scrap generated during manufacturing or processing activities of an SEZ Unit/ Developer/ Codeveloper are allowed to be disposed in DTA freely, without any authorization, subject to payment of applicable customs duty.*

(v) True. *A Customs Clearance Permit (CCP) for import of gifts is not required from DGFT if such goods are otherwise freely importable under ITC(HS). Thus, only when the goods imported as gifts are not freely importable under ITC(HS), a CCP is required.*

Question 6: Mr. A wants to import a laptop from the USA which has been used by the seller for some time there. Mr. A contends that he can freely import such laptop without any restriction/ authorization. Examine the correctness of Mr. A's claim in the light of the provisions of FTP 2009-14.

Answer: *As per FTP 2009-14, second hand (used) goods, except second hand capital goods, are restricted for imports and can be imported only in accordance with the provisions of FTP, ITC(HS),* *prescribed procedures, public notice or an Authorization in this regard. Import of second hand capital goods, including refurbished/ re-conditioned spares is allowed freely. However, second hand personal computers/ laptops, photocopier machines, air conditioners, diesel generating sets will only be allowed against an authorization. Import of remanufactured goods will also be allowed only against an authorization. In view of the afore-mentioned provisions, Mr. A's claim is not correct as second hand laptops can be imported only against an authorization.*

Question 7

AB Corporation, a manufacturer-exporter, has approached CD Corporation, a merchant exporter, to export one of its consignments as owing to some technical difficulties, AB Corporation could not export the consignment itself. The shipping bills relating to the consignment bear the name of CD Corporation. Bank Realization Certificate, GR declaration, export order and invoice are also in the name of CD Corporation. Comment whether AB Corporation would be deemed as exporter under FTP.

Answer: *The above 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.

In the above case, though BRC, GR declaration, export order and invoice are in the name of CD Corporation (third party exporter), the shipping bill does not have the name of AB Corporation (manufacturing exporter). Therefore, AB Corporation will not be treated as the exporter in this case.

Question 8

Answer the following questions with reference to the provisions of Foreign Trade Policy:

(i) FIintex Manufacturers manufactures goods by using imported inputs and supplies the same under Aid Programme of the United Nations. The payment for such supply is received in free foreign exchange. Can FIintex Manufacturers seek Advance Authorization for the supplies made by it?

(ii) XYZ Ltd. has imported inputs without payment of duty under Advance Authorization. The CIF value of such inputs is ` 10,00,000. The inputs are processed and the final product is exported. The exports made by XYZ Ltd. are subject to general rate of value addition prescribed under Advance Authorization Scheme. No other input is being used by XYZ Ltd. in the processing. What should be the minimum FOB value of the exports made by the XYZ Ltd. as per the provisions of Advance Authorization?

(iii) 'A' has used some duty paid inputs in its export products. However, for the rest of the inputs, he wants to apply for the Advance Authorization. Can he do so? Explain.

Answer:

(i) *Advance Authorization can be issued for supplies made to United Nations Organisations or under Aid Programme of the United Nations or other multilateral agencies and such supplies need to be paid for in free foreign exchange. Therefore, Flintex Manufacturers can seek an Advance Authorization for the supplies made by it.*

(ii) *Advance Authorization necessitates exports with a minimum value addition of 15% value addition.*

VA = [(A – B)/B x 100]

A = FOB value of export realized, B = CIF value of inputs covered by authorization.

Therefore, the minimum FOB value of the exports made by XYZ Ltd. should be ` 11,50,000.

(iii) *Yes, 'A' can do so. In case of part duty free and part duty paid imports, both Advance Authorization 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). Advance Authorization can be used for importing duty free material. Drawback allowed must be mentioned in the application for Advance Authorization.*

Question 9

What are the salient features of Duty-Free Import Authorization Scheme (DFIA)? Which duties are exempted under this scheme?

Ans: Refer pg 11

Question 10

Two exporters namely, Red Sky Pvt. Ltd. and Black Night Pvt. Ltd. have achieved the status of Star Export House (SEH) and Trading House (TH) respectively in the financial year 2013-14. Both the exporters have been regularly exporting goods every year. What would have been the minimum export performance of the two exporters to achieve such status? Both the exporters want to establish export warehouses in accordance with the applicable guidelines. However, Black Night Pvt. Ltd. contends that it, being a Trading House, is only entitled to establish export warehouses and that a Star Export House (SEH) cannot do so. Explain whether the contention of Black Night Pvt. Ltd. is correct.

Answer: *Status recognition depends upon export performance. An applicant is categorized as status holder upon achieving export performance indicated in table below. The export performance is counted on the basis of FOB value of export proceeds realized during current plus previous three years (taken together). For Export House (EH) Status, export performance is necessary in at least two out of 4 years.*

Status Category	Export Performance [FOB/FOR Value in cr.]
Export House (EH)	20
Star Export House (SHE)	100
Trading House	500
Star Trading House (STH)	2,500
Premier Trading House (PTH)	10,000

In view of the above discussion, minimum FOB value of the exports made by Red Sky Pvt. Ltd. and Black Night Pvt. Ltd. (TH) during the year 2013-14 plus the preceding 3 years would have been ` 100 cr & ` 500 cr respectively as they have achieved the status of SEH and TH in the year 2013-14. SEHs and above are permitted to establish export warehouses as per DoR guidelines. Therefore, Red Sky Pvt. Ltd. being a SEH is eligible to establish an export warehouse and thus, contention of Black Night Pvt. Ltd. is not correct.

Question 11

Examine whether benefit of Served From India Scheme (SFIS) can be availed in the following cases:

(i) Foreign exchange earned by Mr. Aniket, a service provider, in the current year is ` 3 lakh.

(ii) Foreign exchange earned by Mr. Samrat, a manufacturer, in the current year is ` 6 lakh.

(iii) X and Y Brothers, a firm of service providers, has earned foreign exchange to the tune of ` 12 lakh in the current year.

(iv) Mr. Ishaan, a service provider, has earned foreign exchange of ` 5.10 lakh in the current year. Out of such ` 5.10 lakh, ` 3.5 lakh has been paid to Mr. Ishaan through the credit card of the foreign client.

The services provided by all the above service providers are eligible for the Scheme.

Answer: *All Indian Service Providers who have free foreign exchange earning of at least ` 10 Lakh in current financial year qualify for SFIS Scheme. For individual Indian Service Providers, minimum free foreign exchange earnings are ` 5 Lakh. Free foreign exchange earned through International Credit Cards* *and other instruments as permitted by RBI for rendering of service are also be taken into account for computation of Duty Credit Scrip. In the light of the above provisions, the cases are examined as under:*

(i) *Mr. Aniket is not eligible for SFIS Scheme as his foreign exchange earnings are less than ` 5 lakh (minimum limit for individuals).*

(ii) *The Scheme is available only for service providers. Manufacturers are not entitled for this Scheme. Thus, Mr. Samrat cannot avail the benefit of SFIS Scheme.*

(iii) *X and Y Brothers are eligible for the Scheme as their foreign exchange earnings exceed the limit of ` 10 lakh (minimum limit for firms).*

(iv) *Foreign exchange earned through credit cards is counted for the purpose of computing the limit of minimum foreign exchange required for being eligible to SFIS Scheme. Thus, Mr. Ishaan is eligible for SFIS Scheme.*

Question 12

Answer the following questions with reference to the provisions of SFIS Scheme:

(i) Rishita provides services eligible for SFIS Scheme. She wants to sell SFIS scrips earned by her. Can she do so?

(ii) Can a service provider, instead of importing the inputs, source the same indigenously without payment of excise duty?

(iii) What is the rate of entitlement under the Scheme?

(iv) An upcoming Hotel chain wants to use SFIS scrip for import of cement to be used in the construction of a new Hotel. Is it possible?

Answer

(i) No. *Entitlement/ goods (imported/ procured) are non transferable and subject to actual user condition. However, the scrip earned by a company can be utilized by other companies of the same group. Similar is the case of managed hotels also.*

(ii) Yes. *Utilization of duty credit scrip is permitted for payment of excise duty for procurement from domestic sources, of items permitted for imports under SFIS Duty Credit Scrip.*

(iii) *Eligible service providers are entitled for duty credit scrip of 10% of the net free foreign exchange earned during current financial year.*

(iv) No. *Following items can be imported under the SFIS Scheme:*

(a) Import must relate to service sector business of the applicant, should be freely importable and/or restricted under ITC(HS) and must belong to following categories:

- *Any capital goods including spares,*
- *Office equipment*
- *Pofessional equipment*
- *Office furniture*
- *Consumables.*

(b) Only such vehicles, which are in the nature of professional equipment to the service provider can be imported using the scrip. Motor cars, SUV's and all purpose vehicles can be imported/sourced domestically as professional equipment by Hotels, Travel agents, Tour operators or Tour Transport operators and companies owning/operating golf resorts. Such vehicles (operating on road and requiring registration) will have to be registered for tourist purpose only.

(c) Hotels; clubs having residential facility of minimum 30 rooms; golf resorts and stand-alone restaurants having catering facilities can also import consumables including food items and alcoholic beverages.

(d) Service providers who are also engaged in manufacturing activity can use their SFIS scrip for importing / domestic sourcing of capital goods including spares related to the manufacturing sector business of the service provider.

Question 13

(i) Mention the reward scheme provided under FTP which aims to compensate high transport costs and offset other disadvantages in the export of specified agricultural and village industry products. What is the general rate of entitlement under the Scheme? How can the duty scrips issued under the Scheme be utilized?

(ii) State the scheme provided under FTP to primarily penetrate Latin American, African and Eastern European markets. What is the general rate of entitlement under the Scheme? Can diamonds and other precious, semi precious stones be exported under this Scheme?

Answer

(i) *Vishesh Krishi and Gram Udyog Yojana (VKGUY) has been provided under FTP to compensate high transport costs and offset other disadvantages in the exports of specified agricultural products. Eligible exporters are entitled for duty credit scrip equivalent to 5% of FOB value of exports realized in free foreign exchange. The scrip can be utilized for payment of customs duties of all freely importable items as well as for procurement of domestic items without payment of central excise duty as well as service tax. Further, it can also be utilized for payment of application fee to DGFT for obtaining any Authorisation.*

(ii) *Focus Market Scheme (FMS) has been introduced under FTP to penetrate those markets [primarily Latin America, Africa, Eastern Europe, etc.] which Indian exports have been neglecting (owing to high freight costs and other externalities). Eligible exporters to notified countries are entitled for duty credit scrip equivalent to 3% of FOB value of exports (in free foreign exchange) for exports. No, export of diamonds and other recious, semi precious stones is not eligible for duty credit scrip, under FMS scheme:*

Question 14

XP 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 under Project Imports. The capital goods will be used for pre-production processes. The final products of XP Pvt. Ltd. would be supplied in SEZ. XP Pvt. Ltd. wishes to sell the capital goods imported by it as soon as the production process starts.

XP Pvt. Ltd. seeks your advice whether it can avail the benefit of EPCG Scheme for importing the intended capital goods.

Note – Base your opinion on the facts given above assuming that all other conditions required for being eligible to the EPCG Scheme are fulfilled in the above case.

Answer

Export Promotion Capital Goods Scheme (EPCG) permits exporters to procure capital goods at concessional rate of customs duty/zero customs duty. In return, exporter is under an obligation to fulfill the 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. The license holder can either procure the capital goods (whether used for pre-production, production or post-production) from global market or domestic market. The capital goods can also be imported in CKD/ SKD to be assembled in India.

An EPCG Authorization can also be issued for import of capital goods under Scheme for Project Imports Export obligation for such EPCG Authorizations would be 6 times of duty saved. Duty saved would be *difference between the effective duty under Project Imports and concessional duty under the EPCG scheme.*

However, import of capital goods is subject to 'Actual User' condition till export obligation is completed.

Therefore, based on the above discussion, XP 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.

Question 15

With reference to the provisions relating to EOU, EHTP, STP, BTP & SEZ Schemes as contained in FTP, answer the following questions:

(i) A unit intending to trade in handicrafts wants to set up an EOU. Is it allowed?

(ii) An EOU has started production after 3 years 10 months from the date of grant of Letter of Permission (LoP)/ Letter of Intent (LoI). Is it correct?

(iii) A EOU wants to import a second hand capital goods which is prohibited under ITC (HS). Can it do so?

(iv) An existing DTA Unit wants to convert into an EOU. It has invested ` 68 lakh in plant and machinery. It exports goods valuing ` 52 crores annually. Which authority has the power to approved the application for conversion of such unit?

(v) An EOU wants to sell 45% of its rejects in DTA on payment of applicable duties on prior intimation to Customs authorities. Can it do so?

Answer

(i) No. *Units undertaking to export their entire production of goods and services (except permissible sales in DTA), may be set up under the Export Oriented Unit (EOU) Scheme, Electronics Hardware Technology Park (EHTP) Scheme, Software Technology Park (STP) Scheme or Bio-Technology Park (BTP) Scheme for manufacture of goods, including repair, re- making, reconditioning, re-engineering and rendering of services. Trading units are not covered under these schemes.*

(ii) No. *EOU/ BTP/ EHTP/ STPs should start production within 3 years from the date of grant of Letter of Permission (LoP)/ Letter of Intent (LoI). In other words, LoP/ LoI have an initial validity of 3 years, by which time unit should have commenced production. Its validity may be extended further up to 3 years by competent authority. However, roposals for extension beyond six years shall be considered in exceptional circumstances, on a case to case basis by BoA.*

(iii) No. *Though an EOU is permitted to import duty free second hand capital goods, without any age limit, it cannot import capital goods that are prohibited items of import in the ITC(HS).*

(iv) *The application for conversion into an EOU from existing DTA unit having an investment of ` 50 crores and above in plant and machinery or exporting ` 50 crores and above is placed before Board of Approval for a decision.*

(v) Yes. *Rejects within an overall limit of 50% may be sold in DTA on payment of duties as applicable, on prior intimation to Customs authorities. Such sales are counted against DTA sale entitlement. Sale of rejects upto 5% of FOB value of exports are not subject to achievement of NFE.*

Question 16

Are supplies made by the sub-contractors eligible for deemed export benefits under FTP? Discuss.

Answer: *Yes, the supplies made by the sub-contractor are eligible for deemed export benefit. Normally, in order to be eligible for deemed export benefits, supplies are to be made directly to designated Projects/Agencies/Units/Advance Authorization/EPCG Authorization holders. However, FTP allows a sub-contractor to make supplies to main contractor, instead of supplying directly to designated*

Projects/Agencies. Such supplies are eligible for deemed export benefits if the main contractor makes payment to sub-contractor and issues payment certificate.

Supplies made by an Indian sub-contractor of an Indian or foreign main contractor directly to the designated Projects/Agencies are also eligible for deemed export benefits provided the name of the sub-contractor is indicated either originally or subsequently in the main contract (but before the date of supply of such goods) and payment certificate is issued by Project Authority in the name of sub-contractor.

SELF NOTES:

One And Only You

Every single blade of grass,
And every flake of snow—
Is just a wee bit different...
There's no two alike, you know.

From something small, like grains of sand,
To each gigantic star
All were made with THIS in mind:
To be just what they are!

How foolish then, to imitate—
How useless to pretend!
Since each of us comes from a MIND
Whose ideas never end.

There'll only be just ONE of ME
To show what I can do—
And you should likewise feel very proud,
There's only ONE of YOU.

That is where it all starts
With you, a wonderful
unlimited human being.

~ James T. Moore