

[TO BE PUBLISHED IN PART II, SECTION 3, SUB-SECTION (i) OF THE GAZETTE OF INDIA
(EXTRAORDINARY)]

GOVERNMENT OF INDIA
MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)

Notification No. 22 / 2013-CUSTOMS

New Delhi, the 18th April, 2013.

G.S.R. 248 (E). - In exercise of the powers conferred by sub-section (1) of section 25 of the Customs Act, 1962 (52 of 1962), the Central Government, being satisfied that it is necessary in the public interest so to do, hereby exempts goods specified in the Table 1 annexed hereto, from,-

- (i) the whole of the duty of customs leviable thereon under the First Schedule to the Customs Tariff Act, 1975 (51 of 1975), and
- (ii) the whole of the additional duty leviable thereon under section 3 of the said Customs Tariff Act, when specifically claimed by the importer.

2. The exemption under this notification shall be subject to the following conditions, namely:-

(1) that the goods imported are covered by a valid authorisation issued under the Export Promotion Capital Goods (EPCG) Scheme in terms of Chapter 5 of the Foreign Trade Policy permitting import of goods at zero customs duty;

(2) that the authorisation is registered at the port of import specified in the said authorisation and the goods, which are specified in the Table 1 annexed hereto, are imported within eighteen months from the date of issue of the said authorisation and the said authorisation is produced for debit by the proper officer of customs at the time of clearance:

Provided that the benefit of import of capital goods at concessional duty under this notification for creation of modern infrastructure shall be extended only to such retailers who have a minimum area of 1000 square metres:

Provided further that the catalyst for one subsequent charge shall be allowed, under the authorisation in which plant, machinery or equipment and catalyst for initial charge have been imported, except in cases where the Regional Authority issues a separate authorisation for catalyst for one subsequent charge after the plant, machinery or equipment and catalyst for initial charge have already been imported;

(3) that the importer is not issued, in the year of issuance of zero duty EPCG authorisation, the duty credit scrips under Status Holder Incentive Scrip (SHIS) scheme under para 3.16 of the Foreign Trade Policy. In the case of applicant who is Common Service Provider (herein after referred as CSP), the CSP or any of its specific users should not be issued, in the year of issuance of the zero duty EPCG authorisation, the duty credit scrips under SHIS. This condition shall not apply where already availed SHIS benefit that is unutilised is surrendered or where benefits availed under SHIS that is utilised is refunded, with applicable interest, before issue of the zero duty EPCG authorisation. SHIS scrips which are surrendered or benefit refunded or not issued in a particular year for the reason the authorisation has been issued in that year shall not be issued in future years also;

(4) that the authorisation for annual requirement shall indicate export product to be exported under the authorisation. The importer shall submit a Nexus Certificate from an independent Chartered Engineer (CEC) in the format specified in Appendix 32A of HBP (vol. I) notified under the Foreign Trade Policy, certifying nexus of imported capital goods with the export product, to the Customs authorities at the time of clearance of imported capital goods. A

copy of the CEC shall be submitted to the concerned Regional Authority alongwith copy of the bill of entry, within thirty days from the date of import of the Capital Goods;

(5) that the goods imported shall not be disposed of or transferred by sale or lease or any other manner till export obligation is complete;

(6) that the importer executes a bond in such form and for such sum and with such surety or security as may be specified by the Deputy Commissioner of Customs or Assistant Commissioner of Customs binding himself to comply with all the conditions of this notification as well as to fulfill export obligation on Free on Board (FOB) basis equivalent to six times the duty saved on the goods imported as may be specified on the authorisation, or for such higher sum as may be fixed or endorsed by the Regional Authority in terms of Para 5.10 of the Handbook of Procedures Vol I, issued under para 2.4 of the Foreign Trade Policy, within a period of six years from the date of issue of Authorisation, in the following proportions, namely :-

S. No.	Period from the date of issue of Authorisation	Proportion of total export obligation
(1)	(2)	(3)
1.	Block of 1 st to 4 th year	50%
2.	Block of 5 th to 6 th year	50%

Provided that in case the authorisation is issued to a CSP, the CSP shall execute the bond with bank guarantee and the bank guarantee shall be equivalent to 100% of the duty foregone, and the bank guarantee shall be given by CSP or by anyone of the users or a combination thereof, at the option of the CSP:

Provided further that the export obligation shall be 75% of the normal export obligation specified above when fulfilled by export of following green technology products, namely, equipment for solar energy decentralised and grid connected products, bio-mass gassifier, bio-mass or waste boiler, vapour absorption chillers, waste heat boiler, waste heat recovery units, unfired heat recovery steam generators, wind turbine, solar collector and parts thereof, water treatment plants, wind mill and wind mill turbine or engine, other generating sets - wind powered, electrically operated vehicles – motor cars, electrically operated vehicles – lorries and trucks, electrically operated vehicles – motor cycle and mopeds, and solar cells:

Provided also that for units located in Arunachal Pradesh, Assam, Jammu and Kashmir, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim and Tripura, the export obligation shall be 25% of the normal export obligation specified above:

Provided also that spares (including refurbished or reconditioned spares), moulds, dies, jigs, fixtures, tools and refractory for initial lining, for the 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 normal export obligation specified above in case of separate authorisation issued, subject to the condition that the Cost, Insurance and Freight (CIF) value of import of the said spares etc. is limited to 10% of the CIF value of the plant and machinery imported under the EPCG authorisation or 10% of the book value of the plant and machinery imported earlier otherwise than under EPCG Scheme, as the case may be:

Provided also that where a sick unit is notified by the Board for Industrial and Financial Reconstruction (BIFR) or where a rehabilitation scheme is announced by the concerned State Government in respect of sick unit for its revival, the export obligation may be fulfilled within time period allowed by the Regional Authority as per the rehabilitation package prepared by the operating agency and approved by BIFR or rehabilitation department of State Government. In cases where the time period is not specified in the rehabilitation package, the export obligation may be fulfilled within the time period allowed by the Regional Authority which shall not exceed nine years:

Provided also that where the capital goods are imported for technological upgradation as per conditions specified in Para 5.8 of the Foreign Trade Policy, the export obligation shall be fixed equivalent to six times the duty saved on the capital goods imported as may be specified on the authorization, or for such higher sum as may be fixed by the Regional Authority, to be fulfilled within period of six years from the date of issue of authorization under the said para:

Provided also that export obligation of a particular block may be set off against the excess exports made in the said preceding block;

(7) that if the importer does not claim exemption from the additional duty leviable under section 3 of the Customs Tariff Act, 1975, the additional duty so paid by him shall not be taken for computation of the net duty saved for the purpose of fixation of export obligation provided the Cenvat credit of additional duty paid has not been taken;

(8) that the importer, including a CSP, produces within 30 days from the expiry of each block from the date of issue of authorisation or within such extended period as the Deputy Commissioner of Customs or Assistant Commissioner of Customs may allow, evidence to the satisfaction of the Deputy Commissioner of Customs or Assistant Commissioner of Customs showing the extent of export obligation fulfilled, and where the export obligation of any particular block is not fulfilled in terms of the condition (6), the importer shall within three months from the expiry of the said block pay duties of customs equal to an amount which bears the same proportion to the duties leviable on the goods, but for the exemption contained herein, which the unfulfilled portion of the export obligation bears to the total export obligation, together with interest at the rate of 15% per annum from the date of clearance of the goods;

(9) that where the importer fulfills 75% or more of the export obligation as specified in condition (6) (over and above 100% of the average export obligation) within half of the period specified for export obligation as mentioned in condition (6), his balance export obligation shall be condoned and he shall be treated to have fulfilled the entire export obligation;

(10) that the capital goods imported, assembled or manufactured are installed in the importer's factory or premises and a certificate from the jurisdictional Deputy Commissioner of Central Excise or Assistant Commissioner of Central Excise, as the case may be, is produced confirming installation and use of the capital goods in the importer's factory or premises, within six months from the date of completion of imports or within such extended period as the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be, may allow :

Provided that in case of import of spares, the installation certificate shall be produced within three years from the date of import:

Provided further that if the importer, including an importer who is a Common Service Provider (CSP), is not registered with the Central Excise or if the importer is a service provider (other than a CSP), as the case may be, he may produce the said certificate of installation and usage issued by an independent Chartered Engineer:

Provided also that in the case of manufacturer exporter and merchant exporter having supporting manufacturer(s) or vendor(s) or in the case of import of irrigation equipment for use in contract farming for export of agricultural products or in the case of importer rendering services, the capital goods may be installed at the factory or premises of such other person whose name and address is endorsed on the authorisation referred to in condition (1) and also on the shipping bills and where the bond for full difference of duty, if necessary, in terms of condition (6) with or without a bank guarantee, as the case may be, is executed by the importer and such other person binding themselves jointly and severally to fulfill the export obligation and all other conditions of this notification and to pay duty with interest at the rate of 15% per annum in case of default. This shall not apply to a CSP:

Provided also that agro units located in Agri Export Zones or service providers in Agri Export Zones may move the capital goods within the Agri Export Zones under intimation to the jurisdictional Deputy Commissioner of Central Excise or Assistant Commissioner of Central Excise, as the case may be, subject to the condition that the importer shall maintain accurate record of such movement;

(11) that the imports and exports are undertaken through the seaports, airports or through the Inland Container Depots or through the Land Customs Stations as mentioned in the Table 2 annexed hereto or a Special Economic Zone notified under section 4 of the Special Economic Zones Act, 2005 (28 of 2005):

Provided that the Commissioner of Customs may, by special order or a public notice and subject to such conditions as may be specified by him, permit import and export through any other sea-port, airport, inland container depot or through a land customs station within his jurisdiction;

(12) that notwithstanding anything contained in condition (6) above, where the Regional Authority grants extension of block-wise period for any block(s) or overall period of fulfillment of export obligation up to a period of two years or regularization of shortfall in export obligation, not exceeding five percent of such export obligation, the said block-wise period or overall period of export obligation shall be extended or condoned by the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be:

Provided that in respect of sick units referred to in the fifth proviso to condition (6) above, extension of overall period of export obligation shall not be allowed.

3. Where the goods specified in the Table 1 are found defective or unfit for use, the said goods may be re-exported back to the foreign supplier within three years from date of payment of duty on the importation thereof:

Provided that at the time of re-export, the goods are identified to the satisfaction of the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be, to be the same as the goods which were imported.

Explanation – For the purpose of this notification,-

(A) “Authorisation” includes “Authorisation for Annual Requirement”.

(B) “Capital goods” has the same meaning as assigned to it in Paragraph of 9.12 of the Foreign Trade Policy;

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

(D) “Export obligation”, -

(I) means obligation on the importer to export to a place outside India, goods manufactured or capable of being manufactured or services rendered by the use of capital goods imported in terms of this notification and the export obligation shall be over and above the average level of exports achieved by the importer in the preceding three licensing years for the same and similar products within the overall export obligation period including the extended period, if any and such average shall be the arithmetic mean of export performance in the last three years for the same and similar products:

Provided that in case of export of goods relating to handicraft, handlooms, cottage, tiny sector, agriculture, animal husbandry, floriculture, horticulture, pisciculture, viticulture, poultry, sericulture, carpet, coir and jute, the importer shall not be required to maintain the average level of exports:

Provided also that in case of export of goods relating to aquaculture (including fisheries), the importer shall not be required to maintain the average level of exports subject to the condition that

EPCG authorisation has been obtained for goods other than fishing trawlers, boats, ships and other similar items:

Provided also that the goods, excepting tools, imported under this notification by the aforesaid sectors, shall not be allowed to be transferred for a period of five years from the date of imports even in cases where export obligation has been fulfilled. Transfer of capital goods would, however, be permitted within the group companies, after fulfillment of export obligation but before five years from the date of imports, under intimation to Regional Authority and jurisdictional Central Excise Authority:

Provided also that exports made to such countries as notified by Director General of Foreign Trade, shall not be counted for fixing the average level of exports:

Provided also that exports against only such shipping bills which mention the authorisation number and date of the authorisation shall be counted for the fulfillment of the export obligation:

Provided also that in the case of authorisation issued to a CSP, -

- (i) the reference to 'importer' in this Explanation shall be taken to mean a reference to 'CSP and specific users whose details are informed prior to export by CSP to the Regional Authority';
- (ii) for the exports by users of the common service to be counted towards fulfilment of export obligation of CSP, the respective shipping bills of the users of common service shall contain the authorisation details of the CSP and the concerned Regional Authority shall be informed about the details of the users prior to such export; and
- (iii) the exports counted against the authorisation in terms of this notification shall not be counted towards fulfillment of other specific export obligations against all other authorisations issued under Chapter 5 of the Foreign Trade Policy, including para 5.22 of Handbook of Procedures Volume 1;

(II) shall be fulfilled through physical exports and the export proceeds realised in freely convertible currency. However the following categories of supplies, shall also be counted towards fulfillment of export obligation:

(a) deemed exports, namely:

- (i) supply of goods against Advance Authorisation/Advance Authorisation for Annual Requirement/ Duty Free Import Authorisation (DFIA);
- (ii) supply of goods to Export Oriented Units (EOUs) or Software Technology Parks (STPs) or Electronics Hardware Technology Parks (EHTPs) or Bio-Technology Parks (BTPs);
- (iii) supply of goods to projects financed by multilateral or bilateral agencies or Funds as notified by the Department of Economic Affairs (DEA), the Ministry of Finance (MOF) under International Competitive Bidding (ICB) in accordance with procedures of those agencies or Funds, where legal agreements provide for tender evaluation without including customs duty; supply and installation of goods and equipments (single responsibility of turnkey contracts) to projects financed by multilateral or bilateral agencies or Funds as notified by DEA, MOF under ICB, in accordance with procedures of those agencies/Funds, where bids may have been invited and evaluated on the basis of Delivery Duty Paid (DDP) prices for goods manufactured abroad;

(iv) supply of goods to any project or purpose in respect of which the Ministry of Finance, by a notification, permits import of such goods at zero customs duty and the supply is made under ICB procedure;

(v) supply of goods to mega power projects as provided in sub-clause (ii) of clause (f) of para 8.2 of Foreign Trade Policy;

(vi) supply of goods to nuclear power projects through competitive bidding as provided in clause (j) of para 8.2 of Foreign Trade Policy;

(b) supply of ITA-1 items to Domestic Tariff Area, provided realization is in free foreign exchange;

(c) royalty payments received in freely convertible currency and foreign exchange received for Research and Development (R&D) services; and

(d) payments received in rupee terms for port handling services in terms of chapter 9 of the Foreign Trade Policy.

(E) “Foreign Trade Policy” means the Foreign Trade Policy, 2009-2014, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (ii) *vide* notification number G.S.R. 1293 (E) of the Government of India, Ministry of Commerce and Industry, Department of Commerce No.1 (RE – 2012) /2009-2014 dated the 5th June, 2012, as amended from time to time;

(F) “Handbook of Procedures, Volume 1” means the Handbook of Procedures Volume 1, 2009-14, published in the Gazette of India, Extraordinary, Part I, Section 1 *vide* public notice of the Government of India in the Ministry of Commerce and Industry, Department of Commerce, No.1 (RE – 2012) /2009-2014 dated the 5th June, 2012, as amended from time to time;

(G) “Manufacture” has the same meaning as defined in clause (f) of section 2 of the Central Excise Act, 1944 (1 of 1944);

(H) “Regional Authority” means the Director General of Foreign Trade appointed under section 6 of the Foreign Trade (Development and Regulation) Act, 1992 (22 of 1992) or an officer authorised by him to grant an authorisation including a duty credit scrip under the said Act;

(I) “Town of Export Excellence” (TEE) means a selected town producing goods of Rs. 750 Crore or more based on potential of growth in exports. However, for TEE in handloom, handicraft, agriculture and fisheries sector the threshold limit would be Rs.150 Crore.

Table 1

S. No.	Description of goods
(1)	(2)
1.	Capital goods for pre-production, production and post production.
2.	Capital goods in Semi Knocked Down (SKD) / Completely Knocked Down (CKD) conditions to be assembled into capital goods by the importer.
3.	Spare parts of CIF value upto 10% of the CIF value of goods specified at Serial Nos.1 and 2 as actually imported and required for maintenance of capital goods so imported, assembled, or manufactured.
4.	Spare parts of CIF value upto 10% of the book value of the existing plant and machinery of the importer.

Table 2

S.No.	Port, ICD, LCS	Located at
1.	Seaports	Bedi (including Rozi-Jamnagar), Chennai, Cochin, Dahej, Dharamtar, Haldia (Haldia Dock complex of Kolkata port) Kakinada, Kandla, Kattupalli (Tamilnadu), Kolkata, Krishnapatnam, Ennore (Tamilnadu) and Karaikal (Union territory of Puducherry), Magdalla, Mangalore, Marmagao, Muldwarka, Mumbai, Mundhra, Nagapattinam, Nhava Sheva, Okha, Paradeep, Pipavav, Porbander, Sikka, Tuticorin, Visakhapatnam and Vadinar.
2.	Airports	Ahmedabad, Bangalore, Bhubaneswar, Chennai, Cochin, Coimbatore, Dabolim (Goa), Delhi, Hyderabad, Indore, Jaipur, Kolkata, Lucknow (Amausi), Mumbai, Nagpur, Rajasansi (Amritsar), Srinagar, Trivandrum, Varanasi and Visakhapatnam.
3.	Inland Container Depots	Agra, Ahmedabad, Anaparthi (Andhra Pradesh), Babarpur, Bangalore, Bhadohi, Bhatinda, Bhilwara, Bhiwadi, Bhusawal, Chettipalayam (Tamilnadu), Chheharata (Amritsar), Coimbatore, Dadri, Dappar (Dera Bassi), Daulatabad (Wanjarwadi and Maliwada), Delhi, Dhannad Rau (District Indore), Dighi (Pune), Durgapur (Export Promotion Industrial Park), Faridabad, Garhi Harsaru, Gauhati, Guntur, Hyderabad, Irugur Village (Tamilnadu), Irungattukottai (SIPCOT Industrial Park, Kattrambakkam Village, Sriperumbudur Taluk, Kanchipuram District, Tamilnadu), Jaipur, Jallandhar, Jamshedpur, Jodhpur, Kanpur, Karur, Kheda (Pithampur, District Dhar), Kota, Kundli, Loni (District Ghaziabad), Ludhiana, Madurai, Malanpur, Mandideep (District Raisen), Marripalem Village (in Edlapadu Taluk of District Guntur), Miraj, Moradabad, Nagpur, Nasik, Patli (Gurgaon), Pimpri (Pune), Pitampur (Indore), Pondicherry, Raipur, Rewari, Rudrapur (Nainital), Salem, Singanalur, Surat, Surajpur, Talegaon (District Pune), Thudiyalur (Tamilnadu), Tirupur, Tondiarpet (TNPM) in Chennai, Tuticorin, Udaipur, Vadodara, Varanasi, Veerapandi (Tamilnadu) and Waluj (Aurangabad).
4.	Land Customs Stations	Agartala, Amritsar Rail Cargo, Attari Road, Changrabandha, Dawki, Ghojadanga, Hilli, Jogbani, Mahadipur, Nepalganj Road, Nautanva (Sonauli), Petrapole, Ranaghat, Raxaul, Singhabad and Sutarkhandi.

[F.No.605/10/2013-DBK]

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