

This column is compiled by Consultant [EXIM Policy] of EPCH. It contains recent Public Notices, Notifications and Circulars of DGFT, CBIC and Department of Revenue. If a handicraft exporter has question[s] to ask on Foreign Trade Policy, he/she may please write / e-mail to EPCH at policy@epch.com

Impex # 1

Clarification issued on the availability of Pre-shipment and Post-shipment credit for E-commerce exports

DGFT issues Trade Notice containing the clarification that the existing RBI policy does not prevent availability of Pre-shipment and Post-shipment export credit and packing credit in Foreign currency for E-commerce exports.

DGFT has issued a Trade Notice No.26/2023-24 dt. 4th Sept, 2023 containing the clarification that the existing policy of RBI does not preclude E-commerce exporters from availing Pre-shipment and Post-shipment credit in foreign currency (PCFC).

Copy of Trade Notice No.26 dt 04-09-2023 is given below:

(Copy) Trade Notice No. 26/2023-24-DGFT; Dated: 4th September 2023

Subject: Pre-shipment and Post-shipment Export Credit and Packing Credit in Foreign Currency (PCFC) for E-Commerce Exports -reg

Reference Chapter 9 of the new Foreign Trade Policy 2023 on 'Promoting Cross Border Trade in Digital Economy', it is submitted that consultations were held with industry representatives, exporters, and nodal departments on outstanding issues pertaining to exports through E-Commerce. One issue flagged was the unavailability of Pre-shipment and Post-shipment export credit for E-Commerce exports. In this regard, consultations were held with RBI.

2. Reference the said consultation with RBI, it is clarified that "Master Circular-Rupee / Foreign Currency Export Credit and Customer Service to Exporters" furnishes a comprehensive framework, allowing for access to Pre-shipment and Post-shipment export credit and Packing Credit in Foreign Currency (PCFC) to all eligible exporters which does not preclude E-Commerce Exporters.

3. Banking and financial institutions concerned are therefore encouraged to extend Pre-shipment and Post-shipment Export Credit and Packing Credit Loan in Foreign Currency (PCFC) to E-Commerce exports based on the extant guidelines issued by RBI. Any issues in availing such Export Credit may be brought to attention by E-Commerce Exporters or banks to this Directorate.

Impex # 2

Holding of "Monthly workshops" on cross border E-commerce

DGFT issues Trade Notice about holding "Monthly workshops on"cross border E-commerce.

Dissemination of information about the complex subject of foreign trade is very important. DGFT has issued out Trade Notice No. 25/2023-24 dt 01st Sept, 2023 about holding of "Monthly workshops"on the subject of border E-commerce (copy reproduced below) it may be of interest to many.

(Copy) Trade Notice No. 25/2023-24-DGFT; Dated: 1st September 2023

Subject: Monthly workshops on Cross-border E-Commerce-reg.

Attention is drawn to Para 9.07 of Foreign Trade Policy 2023, wherein handholding and outreach to promote E-Commerce Exports is mandated. In addition to increasing awareness on E-Commerce related rules and processes, actions for capacity building and skill development for promotion of E-Commerce exports is also mandated. In this regard, monthly workshops on E-Commerce Exports are proposed by this directorate.

2. **Workshop Topics:** The workshops shall cover aspects related to cross-border logistics, Postal and Customs compliances and cross-border payment mechanisms as well as any other topics of relevance.

3. **Workshop Schedule:** The proposed workshops shall be held during the 1st week of each month through Video Conference. In-person workshops shall also be organised where feasible.

4. **Registration Link:** Persons interested in attending the given workshops may register at the given link <https://forms.gle/SBR2n2TNvcz8g1fX6> 5. **Calling Experienced E-Commerce Exporters:** Experienced E-Commerce Exporters who are desirous of sharing their experience and advise for new export entrepreneurs, are welcomed to participate as guest speakers in the workshop. Expression of Interest for guest speakers, may please be sent over email to ecommerce-dgft@gov.in.

Impex # 3

RoDTEP scheme for exports extended from 01.10.2023

DGFT issues notification to extend the RoDTEP scheme from 01.10.2023 and shall be valid till 30.06.2024.

RoDTEP scheme of DGFT is a very important benefit on exports. On 26th Sept, 2023, DGFT issued a Notification No. 33/2023 for extension of RoDTEP scheme for exports from 01.10.2023 till 30.06.2024. It is also stated in the above notification that the extension is subject to the budgetary framework.

Copy of notification is reproduced below:

(Copy) DGFT Notification No.33/22023, Dated: 26th September, 2023

Subject: Extension of RoDTEP scheme for exports made from 01.10.2023 - reg

In exercise of the powers conferred by Section 5 of the Foreign Trade (Development and Regulation) Act, 1992 read with Para 1.02 of the Foreign Trade Policy 2023, the Central Government hereby notifies an extension of RoDTEP scheme for exports made from 01.10.2023.

2. The existing rates for all the items covered under RoDTEP will be applicable for exports made from 01.10.2023 to 30.06.2024. However, it would be subject to the budgetary framework as provided under Para 4.54 of FTP 2023 so that the remissions for current financial year are managed within the approved Budget of the Scheme.

Effect of this Notification: The RoDTEP scheme is extended for exports made from 01.10.2023 and shall be applicable till 30.06.2024.

Impex # 4

DGFT issues clarification in respect of advance authorisation issued with pre-import conditions

DGFT issues five clarification in respect of Advance Authorisation (issued with pre-import condition) between the period between 13.10.2017 and 09.01.2019.

Since regional authorities are facing difficulties in determining the treatment to be given for certain export-import scenarios in respect of advance authorisation issued in the period between 13.10.2017 to 09.01.2019, DGFT has issued a Trade Notice No.27/2023 dt 25th Sept, 2023 containing five clarifications to take care of various scenarios. (Copy reproduced below).

(Copy) Trade Notice No. 27/2023-DGFT, Dated: 25th September, 2023

Subject: Implementation of the Trade Notice No. 07/2023-24 dated 08.06.2023 in reference to the pre-import condition under Advance Authorisation Scheme -reg.

This is in reference to the implementation of the Trade Notice 07/2023-24 dated 08.06.2023 according to which all the imports made under Advance Authorization Scheme on or after 13.10.2017 and up to and including 09.01.2019 which could not meet the 'pre-import condition' may be regularized by making payments as prescribed in the Customs Circular No. 16/2023 dated 07.06.2023.

2. In this regard, it is noticed that Regional Authorities are facing difficulties in determining the treatment to be given for certain export-import scenarios in respect of Advance Authorisations issued in the period between 13.10.2017 to 09.01.2019.

3. In view of the above, the issues raised are accordingly clarified as follows:

S. No.	Issue raised	Clarification
I.	In case Advance Authorizations under which exports have been made in the period 13.10.2017 to 09.01.2019 and the import is made on or after 10.01.2019, whether pre-import condition will be considered to have been violated.	Pre-import condition will not be considered to have been violated.
II.	If Advance Authorizations were issued on or prior to 09.01.2019 and imports were made on or after 10.01.2019, whether pre-import condition will be applicable.	Pre-import condition will not be applicable.
III.	If against an Advance Authorization, import were partly made up to and including 09.01.2019 and remaining imports were made on or after 10.01.2019, whether imports made on or after 10.01.2019 will be subject to pre- import condition.	In such a scenario, the imports made on or after 10.01.2019 will not be subject to pre import condition.
IV.	In case of imports made under Advance Authorisation on payment of IGST and Compensation Cess, whether pre-import condition will be applicable.	In such a scenario, the imports will not be subject to pre-import condition irrespective of date of import.

Impex # 4

Questions & Answers

Question : We have filed correct information in the GST return but still our refund amount has not been sanctioned. What could be the issue?

Answer : In cases where the exporter files correct information in the GST returns, it gets successfully validated by the GSTN and thereafter transmitted electronically to the Customs system wherein the GST return data is matched with the shipping bill data. If the matching is successful, ICES processes the claim for refund and the relevant amount of IGST paid with respect to each shipping bill or bill of export is electronically credited to the exporter's bank account as registered with the Customs authorities. Wherever the matching fails on account of some error, the refund does not get sanctioned. The matching between the two data sources is done at invoice level and any mismatch of the laid down parameters results in errors.

Question : As per the condition of Advance Authorisation issued to us in March 2019, we have to provide a value addition of 15%, but in fulfillment it comes up to only 7%. Please let us know that if 15% is not done then what is the penalty?

Answer : Achieving 15% value addition is necessary. If value addition falls below the prescribed norm, an amount equal to 1% of shortfall in FOB value in Indian Rupees is required to be deposited.

Question : Whether I need to register at the port of exports for the purpose of claiming and utilization and RoDTEP Scrip?

Answer : Registration on the ICEGATE online portal and creation of the e-credit ledger seems to be sufficient compliance to avail the benefit of the RoDTEP scheme. The registration at the port code of export as was required under the erstwhile MEIS scheme is not required under this scheme. This is more so because the entire mechanism of issuance, processing, generation, and utilization of the scrips is being carried out through a common portal in the ICEGATE.

Question : Is there any provision in GST for tax treatment of goods returned by the recipient?

Answer : Yes, Section 34 deals with such situations. Where the goods supplied are returned by the recipient, the registered person (supplier of goods) may issue to the recipient a credit note containing the prescribed particulars. The details of the credit note shall be declared by the supplier in the returns for the month during which such credit note was issued but not later than September following the end of the year in which such supply was made or the date of filing of the relevant annual return, whichever is earlier. The details of the credit note shall be matched with the corresponding reduction in claim for input tax credit by the recipient in his valid return for the same tax period or any subsequent tax period and the claim for reduction in output tax liability by the supplier that matches with the corresponding reduction in claim for ITC by the recipient shall be finally accepted and communicated to both parties.

Question : Can a principal send inputs and capital goods directly to the premises of a job worker without bringing it to his premises?

Answer : Yes, the principal is allowed to do so. The input tax credit of tax paid on inputs or capital goods can also be availed by the principal in such a scenario. The inputs or capital goods must be received back within one year or three years respectively failing which the original transaction would be treated as supply and the principal would be liable to pay tax accordingly.

Question : Sometimes goods are destroyed or lost due to various reasons? Can a person take ITC to the extent of such goods?

Answer : No, a person cannot take ITC with respect to goods lost, stolen, destroyed or written off. In addition, ITC with respect to goods given as gifts or free samples are also not allowed.

Question : What is the time limit for taking a refund?

Answer : A person claiming refund is required to file an application before the expiry of two years from the "relevant date" as given in the Explanation to section 54 of the CGST/SGST Act.

Question : Is it necessary to execute Bond for exports without payment of IGST?

Answer : No, The facility to export under Letter of Undertaking (LUT) has been extended to all zero rated suppliers (barring a few exceptions such as those who have been prosecuted for an offence involving tax of Rs 2.5 crore) vide Notification No. 37/2017 - Central Tax dated 4.10.2017. Circular No. 8/8/2017-GST dated 4.10.2017 may also be referred to. Only those not eligible for LUT are required to furnish Bond.

Question : In case of refund under exports, whether BRC is necessary for granting refund?

Answer : In case of refund on account of export of goods, the refund rules do not prescribe BRC as a necessary document for filing of refund claim. However, for export of services details of BRC are required to be submitted along with the application for refund. However, for exports of goods also, if the realisation is not received within the prescribed time, the refund money has to be returned with interest to the Government.

Question : Is there any time limit for refund of ITC on exports?

Answer : Yes, refund has to be sanctioned within 60 days from the date of receipt of application complete in all respects. If refund is not sanctioned within the said period of 60 days, interest at the rate notified not exceeding 6% will have to be paid in accordance with section 56 of the CGST/SGST Act. However, in case where provisional refund to the extent of 90% of the amount claimed is refundable in respect of zero-rated supplies made by certain categories of registered persons in terms of sub-section (6) of section 54 of the CGST/SGST Act, the provisional refund has to be given within 7 days from the date of acknowledgement of the claim of refund.