Executive summary

This Tax Alert gives an update on the Foreign Trade Policy (FTP) 2015-2020, which has been released by the Ministry of Commerce and Industry on 1 April 2015.

The FTP 2015 - 2020, which comes into effect from 1 April 2015, has been notified by the Central Government in exercise of the powers conferred under the Foreign Trade (Development and Regulations) Act, 1992.

It introduces two schemes namely “Merchandise Exports from India Scheme” (MEIS) for export of specified goods to specified markets and “Services Exports from India Scheme” (SEIS) for exports of notified services, in place of the schemes issued earlier. The benefits of these reward schemes will also be extended to SEZ units.

Further, measures have been taken to encourage manufacturing and exports under 100%EOU/EHTP/STPI/BTP schemes such as fast track clearance facility, sharing of infrastructural facilities etc.

The major focus areas of this FTP are trade facilitation and ease of doing business. Accordingly, a number of steps have been taken such as reduction in number of mandatory documents for export and import, creation of facility for uploading documents in exporter / importer profile etc.

\(^1\text{vide Notification no. 1/2015-2020 dated 1 April 2015}\)
Background
► The Foreign Trade Policy 2009-2014, which was to remain in force until 31 March 2014, was extended beyond that date as notified by the Director General of Foreign Trade (DGFT) vide Notification no. 69/(RE-2013)/2009-2014 dated 19 February 2014.
► The Foreign Trade Policy 2015-2020 has been released on 1 April 2015, and shall remain in force up to 31 March 2020, unless otherwise specified.
► The new FTP provides a framework for increasing exports of goods and services as well as generation of employment and increasing value addition in the country, integrating the “Make in India”, “Digital India” and “Skills India” initiatives of the Government.

Key Highlights
Exports from India Scheme
► MEIS
► Five earlier schemes for rewarding merchandise exports [namely, Focus Product Scheme, Market Linked Focus Product Scheme, Focus Market Scheme, Agriculture Infrastructure Incentive Scrip, Vishesh Krishi and Gram Udyog Yojana (VKGY)] have been merged into a single scheme i.e. MEIS.
► No conditionality to be attached to scrips issued under the scheme.
► Rewards under the MEIS shall be payable for the export of notified goods to notified markets2 based on a percentage of realized Free on Board (FOB) value of exports.
► The debits towards Basic Customs duty in the duty credit scrips would also be allowed adjustment as duty drawback. At present, only the additional duty of customs / excise duty / service tax is allowed adjustment as CENVAT credit or drawback, as per Department of Revenue rules.
► Higher levels of reward under MEIS proposed for export items with high domestic content and value addition as compared to products with high import content and less value addition.
► Export shipments filed under all categories of Shipping Bills will require a mandatory declaration for the intent to claim rewards under MEIS. In case of shipping bills (other than free shipping bills), such declaration of intent shall be mandatory w.e.f. 1 June 2015.
► E-Commerce: Exports of goods falling in the category of handloom products, books / periodicals, leather footwear, toys and customized fashion garments, through courier or foreign post office using e-commerce, of Free on Board (FOB) value upto INR 25000 per consignment shall be entitled for rewards under MEIS. In case the value exceeds INR 25000, MEIS reward would be limited to FOB value of INR 25000 only.
► SEIS
► SEIS, which has replaced the earlier Served From India Scheme (SFIS), shall now apply to “service providers located in India” instead of “Indian service providers”, regardless of the constitution or profile of the service provider.
► The present rates of reward are 3% and 5% and would be based on net foreign exchange earned. The list of services and the rates of rewards would be reviewed after 30 Sept 2015.
► SEIS scrip would no longer be with “actual user condition” and would not be restricted to usage for specified type of goods. It would be freely transferable and usable for all types of goods and service tax debits on

2 Category A – Traditional markets (EU countries, USA, Canada); Category B – Emerging & Focus markets (Africa, Latin America & Mexico, CIS countries, Turkey and West Asian countries, ASEAN countries, Japan, South Korea, China, Taiwan); Category C – Other countries
procurement of services/ goods. Such debits would be eligible for CENVAT credit or drawback.

► MEIS and SEIS incentives are proposed to be extended to SEZ units.

► Duty credit scrips and the goods imported against these scrips would be freely transferable.

► Duty credit scrips can be used for the following:
  - Payment of customs duty for import of inputs / goods except certain specified items.
  - Payment of Excise duty on domestic procurement of inputs or goods, including capital goods as per Department of Revenue (DoR) notification.
  - Payment of service tax on procurement of services as per DoR notification.
  - Payment of customs Duty, in case of Export Obligation (EO) default and various fees under the FTP.

► Basic Customs Duty paid in cash or through debit under Duty Credit Scrip can be adjusted as Duty Drawback as per relevant Rules, if inputs so imported are used for exports.

► Status holders
  - The nomenclature of Export House, Star Export House, Trading House, Star Trading House, Premier Trading House certificate has been changed to One, Two, Three, Four, Five Star Export House.
  - The criteria for export performance for recognition of status holder have been changed from Rupees to US dollar earnings. The new criteria vis-a-vis the old one is as follows:

<table>
<thead>
<tr>
<th>Status category</th>
<th>Export Performance (FOB/FOR USD in million) during current and previous two years</th>
</tr>
</thead>
<tbody>
<tr>
<td>One Star Export House</td>
<td>3</td>
</tr>
<tr>
<td>Two Star Export House</td>
<td>25</td>
</tr>
<tr>
<td>Three Star Export House</td>
<td>100</td>
</tr>
<tr>
<td>Four Star Export House</td>
<td>500</td>
</tr>
<tr>
<td>Five Star Export House</td>
<td>2000</td>
</tr>
</tbody>
</table>

► Manufacturers who are also "Status Holders" will be able to self-certify their manufactured goods as originating from India, with a view to qualify for preferential treatment under different agreements\(^3\), which are in operation. They shall also be permitted to self-certify the manufactured goods as per their Industrial Entrepreneur Memorandum (IEM)/ Industrial Licence (IL) / Letter of Intent (LOI).

Changes to Export Promotion Capital Goods (EPCG)

► Specific Export Obligation under EPCG scheme, in case of domestic procurement of capital goods, has been reduced from 90% of the normal EO to 75%.

► Obtaining and submitting a certificate from an independent Chartered Engineer, confirming the use of spares, tools, refractory and catalysts imported for final redemption of EPCG authorizations has been dispensed with.

► The requirement to maintain records by EPCG Authorization holders has been reduced from 3 years after redemption of authorization, to 2 years. The Government intends to gradually phase out this requirement.

Trade Facilitation and Ease of Doing Business

► The number of mandatory documents for import/export, reduced from ten to three vide CBEC Circular\(^4\).

Export documents now required:
  - Bill of Lading/Airway Bill
  - Commercial Invoice cum Packing List
  - Shipping Bill/Bill of Export

\(^3\) Preferential Trading Agreements; Free Trade Agreements; Comprehensive Economic Cooperation Agreements; Comprehensive Economic Partnerships Agreements

\(^4\) CBEC Circular No. 01/15-Customs dated 12/01/2015
Import Documents now required:
- Bill of Lading/Airway Bill
- Commercial Invoice cum Packing List
- Bill of Entry

Online procedure to be developed for uploading digitally signed documents by Chartered Accountant / Company Secretary / Cost Accountant, which are at present being submitted physically.

Hard copies of applications under Chapter 3 and 4 of FTP would not be required to be submitted to Regional Authority. Applications under Chapter 5 to be taken up in the next phase.

An exporter may upload scanned copy of Bill of Entry under his digital signature. Also Status Holders falling in the category Three, Four and Five Star Export House may upload scanned copies of documents.

Facility has been created for uploading of documents in Exporter / Importer profile. Thus, once uploaded, there will be no need to submit copies of records/documents with each application.

Certain information like mobile number, email address etc. has been added as mandatory fields in Importer Exporter Code (IEC) database, so as to facilitate communication with exporters regarding the issuance of authorizations or status of applications.

Online application for refund of Terminal Excise Duty (TED) introduced for which a new form is created.

Forthcoming E-Governance initiatives:
- Online inter-ministerial consultations
- Message exchange for transmission of export reward scrips from DGFT to Customs
- Message exchange for transmission of Bills of Entry (import details) from Customs to DGFT
- Online issuance of Export Obligation Discharge Certificate (EODC)
- Message exchange with MCA for Corporate Identification Number (CIN) and Director Identification Number (DIN)
- Message exchange with CBDT for PAN
- Facility to pay application fee using debit card / credit card
- Open API for submission of IEC application
- Mobile applications for FTP

Initiatives for EOUs /EHTP/STP/ BTP
- EOUs, EHTPs, STPs have been allowed to share infrastructural facilities among themselves. Inter unit transfer of goods and services has also been allowed among EOUs, EHTPs, STPs, and BTPs
- EOUs have been allowed facility to set up warehouses near the port of export.
- STP units, EHTP units, software EOUs have been allowed the facility to use all duty free equipment/goods for training purposes.
- 100%EOU units have been allowed facility of supply of spares/ components up to 2%of the value of manufactured articles, to a buyer in domestic market for the purpose of after sale services.
- Period of 5 years for Net Foreign Exchange Earnings (NFE) for 100%EOUs can be extended by 1 year on grounds of genuine hardship or adverse market conditions.
- Time period for validity of Letter of Permission (LOP) for EOUs/EHTP/STPI/BTP Units has been revised. It will now have an initial validity of 2 years and can be further extended by 1 year. Extension beyond 3 years can be granted on the completion of 2/3rd of the activity by the units.
- In case capital goods, which are transferred by EOUs/EHTPs/STPI units to other units, are rejected by the recipient, then it can be returned to the supplying unit without payment of duty.
- A simplified procedure to be provided to fast track the de-bonding / exit of the STP/ EHTP units.

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5 Chapter 3 – Exports from India Schemes
Chapter 4 – Duty Exemption/ Remission Schemes
6 Chapter 5 – EPCG Scheme
EOUs having physical export turnover of INR 10 crore and above, have been allowed the facility of fast track clearances of import and domestic procurement, on the basis of pre-authenticated procurement certificate. Procurement permission for every import consignment will not be required to be sought by EOUs.

Duty exemption

- Imports against Advance Authorization shall be eligible for exemption from Transitional Product Specific Safeguard Duty (TPSSD).

- In order to encourage manufacturing of capital goods in India, import under EPCG Authorisation Scheme shall not be eligible for exemption from payment of anti-dumping duty, safeguard duty and TPSSD.

Other new initiatives

- Validity of SCOMET\(^7\) export authorisation has been extended from the present 12 months to 24 months.

- Authorisation for repeat orders will be considered on automatic basis, subject to certain conditions.

- Verification of End User Certificate (EUC) is being simplified if SCOMET item is being exported under Defence Export Offset Policy.

- EO period for export items falling in the category of defence, military store, aerospace and nuclear energy shall be 24 months from the date of issue of authorization or co-terminus with contracted duration of the export order, whichever is later.

- Calicut Airport, Kerala and Arakonam ICD, Tamil Nadu have been notified as registered ports for import and export.

- India has already extended Duty Free Tariff Preference (DFTP) to 33 Least Developed Countries (LDCs) across the globe. This is being notified under FTP.

- A new risk management and internal audit mechanism is proposed to be introduced.

Quality complaints and trade disputes

- A new chapter on “Quality Complaints and Trade Disputes” has been incorporated in the FTP in an endeavour to resolve quality complaints and trade disputes.

- For resolving such disputes at a faster pace, Committee on Quality Complaints and Trade Disputes (CQCTD) is also being constituted.

Transitions Provisions

- Any licence/ authorization/ certificate/ scrip/ any instrument bestowing fiscal benefits issued before commencement of the new FTP shall continue to be valid for the purpose and duration for which it was issued, unless otherwise stipulated.

Comments

The new FTP aims at rationalizing the reward schemes which will benefit both, merchandise and service exporters.

Extending the SEIS incentive to service providers located in India (earlier restricted to Indian service providers) irrespective of their constitution or profile, will help the entities of foreign multinationals doing business in India, who were earlier denied benefit on the pretext that they did not create “Served from India” brand.

Removal of restrictions on benefit of CENVAT credit / drawback and free transferability of MEIS and SEIS credit scrips and the goods imported against these scrips, will go a long way to facilitate export trade.

Further, extending the benefits of MEIS and SEIS to SEZ units will provide impetus to SEZ exports.

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