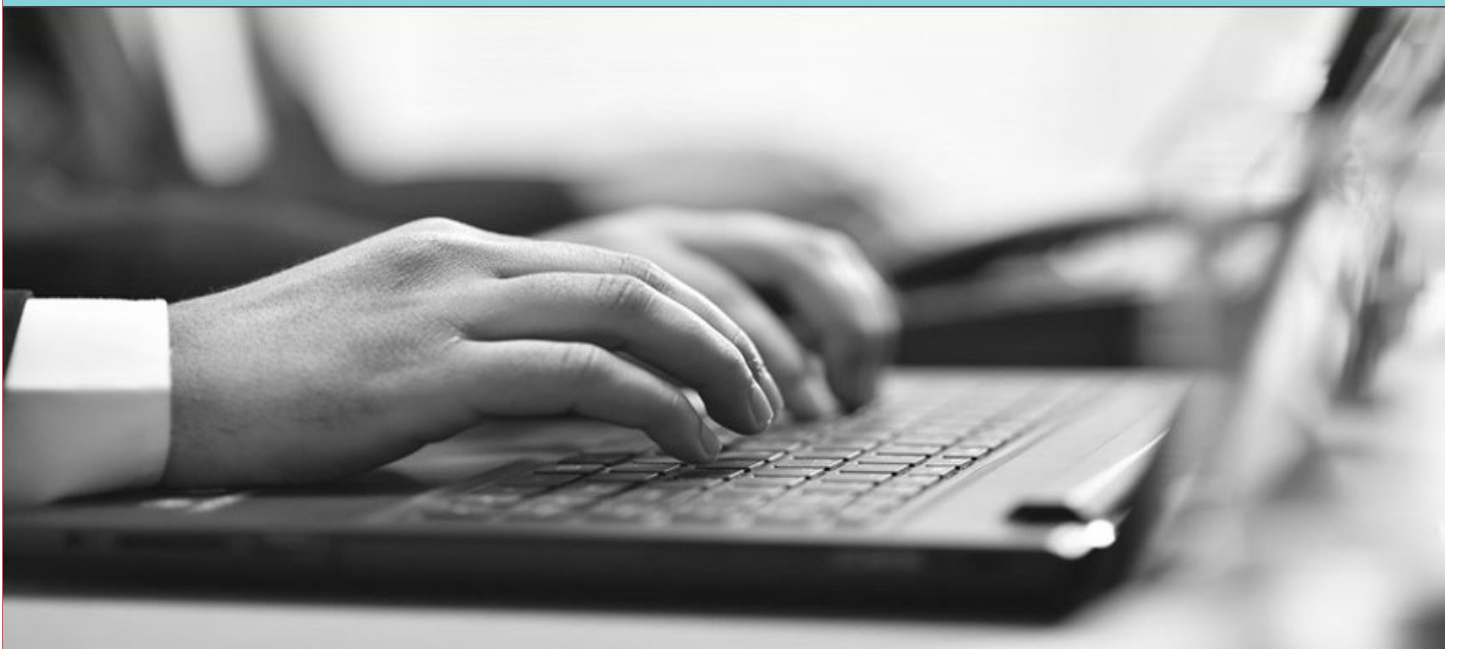


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FOREIGN TRADE POLICY, 2015 – 20

Mid – term revision in December 2017

Nitya Insight



FOREWORD

In departure with the earlier followed practice of review of Foreign Trade Policy (FTP) annually, the country recently witnessed the much awaited mid – term review of the FTP 2015-20 few days back.

The changes announced vide this mid-term review primarily aimed at increasing the quantum of export incentives, bringing ease of doing business and aligning the FTP with the recently introduced GST laws. The changes in the FTP are to foster trust and transparency based approach in dealing with the industry and maintaining quality standards to succeed in the international market.

This booklet contains an insight on the changes recently announced in FTP 2015-20 vide the mid-term review. It is important for businesses to analyse and reflect upon these changes and understand the ramifications on their business.

Trust you will find it an interesting read.

We would be happy to have your thoughts / comments on the booklet at info@nityatax.com.

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1. Trade facilitation measures (Effective from December 5, 2017)

- Several trade facilitation measures and export-import procedure simplifications recently introduced under the customs laws (such as 24x7 clearances, single window interface, waiver of MOT charges, paperless clearances etc) have been incorporated in the FTP.
- Documentation requirements for obtaining Import Export Code (IEC) have been pruned.
- Formats introduced for making applications for (i) seeking interpretation of any policy provisions before Policy Interpretation Committee, and (ii) seeking relaxation in any policy provisions before Policy Relaxation Committee. *(Earlier, no application format was prescribed)*
- The goods or spare parts initially exported and found defective, damaged etc can be re-imported without any authorisation and in accordance with Customs Notification(s). The amended FTP provisions require that the benefits / incentives availed on the returned goods need to be foregone. Further, if the item is 'restricted' for import, the exporter shall also require an import license.

2. Exports from India Schemes (Effective from December 5, 2017 except changes in rates)

- Duty credit scrips can now be utilized for payment of composition fee for shortfall in Export Obligation ('EO') under FTP.

MEIS

- The MEIS incentive has been increased by 2 percent across the board.
- The revised rates of MEIS are applicable for the goods exported during November 1, 2017 to June 30, 2018.

Procedural changes in filing and verification process of MEIS application

- RA is required to decide the claim within 7 working days upon receipt of above documents. A speaking order needs to be passed where RA rejects the claim.
- RA is empowered to call for any documents from applicant if it has reasonable suspicion of wrong classification / mis-declaration in any application.
- RA is authorised to call for original proof of landing certificate, export related documents which have not been physically submitted with application or any other documents which have been uploaded digitally. Time limit to maintain these documents was 3 years from the date of issuance of scrip. The time limit has now been increased to (i) 3 years from the date of issuance of scrip, or (ii) 3 years from the date of completion of scrutiny under Risk Management System initiated by RA, whichever is later.

SEIS

- The SEIS incentive has been increased by 2 percent across the board.
- The revised rates are applicable for services exported during April 1, 2017 to March 31, 2018.
- Ground Handling Service has been notified as a service eligible to claim SEIS benefit even if payment is been received in Indian rupees.

Validity period of duty credit scrip

- Validity period of duty credit scrip has been increased from 18 months to 24 months. The increased validity period is be applicable to scrips issued after January 1, 2016.

Status holder

- Criteria of export performance for grant of status has been liberalized. Now, export performance is necessary in at least 2 out of 4 years (earlier it was 2 out of 3 years).
- DGFT empowered to notify special scheme in respect of input output norms for specified status holder.
- Annual limit of status holder to export freely exportable items **on FOC basis** was lower of the following:
 - Rs.10 Lakhs, or
 - 2 percent of average annual export realization during preceding 3 licensing years

Monetary limit of Rs.10 Lakhs has been increased to Rs.1 Crore

3. Advance Authorisation (Effective from December 5, 2017)

- Regarding input output norms for issuance of Advance Authorisation, following additional basis introduced:
 - Prior fixation of norms by the Norms Committee specific to an Applicant
 - Self-Ratification Scheme

Self-Ratification Scheme

- This scheme is applicable for exporters who holds an Authorized Economic Operator ('AEO') certificate. This scheme can be opted in following situations:
 - (i) where there is no SION / valid ad-hoc norms for an export product, or
 - (ii) where SION has been notified but exporter intends to use additional inputs in the manufacturing process
- RA may issue Advance Authorisation in such case and this case need not be referred to Norms Committees for ratification of norms.
- This scheme is not available for notified inputs and export products.
- Inputs imported under this scheme shall be subject to pre-import conditions and similarly inputs need to be procured prior to manufacture of export item in case of local procurement under invalidation/ARO. The inputs need to be physically incorporated in the export product.
- DGFT or any authorised person is permitted to conduct audit of the exporter.
- All the provisions of Advance Authorisation Scheme shall be applicable to this scheme in so far as they are not inconsistent with this Scheme.

Duty exemptions

- FTP provisions aligned with the Customs Notification to provide that import against Advance Authorisation are exempted from specified duties and taxes (BCD, additional customs duty etc.) including IGST and Compensation Cess. The exemption from IGST and Compensation Cess is available upto March 31, 2018.

EO period and its extension

Particulars	Period	Remarks
Period for fulfilment of EO	18 months from the date of issue of authorisation (Note 1)	No change
Extension in EO for Authorisations issued under FTP 2015 – 2020	9 months from the last date to fulfil EO	New time limit introduced
Maximum extension in period to fulfil EO	12 months from the date of expiry of original EO period	New time limit introduced

Note 1 – *In case of supplies made to projects specified under Chapter 7 of FTP (projects funded by WTO, World Bank etc.) or projects abroad, EO period shall be equal to contractual duration of project or 18 months, whichever is higher*

- Extension of EO period for units under BIFR / Rehabilitation is no more permitted. Special provisions applicable for these units are now deleted from FTP.

Others

- Goods imported against Advance Authorisation which are found to be defective or unfit for use, may be re-exported as per Department of Revenue guidelines. The authorisation holder needs to inform RA who has issued authorisation before re-export of such goods.

4. Export Promotion Capital Goods (EPCG) Scheme (Effective from December 5, 2017)

- The following inclusions made in the list of capital goods eligible under EPCG Scheme:
 - Computer system and software (software only if it is part of capital goods being imported)
 - Import of second hand goods
 - Capital goods used for generation of electricity (*Prior to the amendment, capital goods meant for export / deemed export of electricity or generation of electricity for captive use was not allowed*)
- Capital goods procured under EPCG scheme can now be disposed only after obtaining EO Discharge Certificate (EODC).
- Extension of EO period for units under BIFR / Rehabilitation is no more permitted. Special provisions applicable for these units are now deleted from FTP.
- Provision has also been inserted for amendment of nexus certificate to amend (add or delete) list of items to be imported. Earlier, there was no specific provision to seek such amendment.
- Capital goods can be re-exported within 3 years for repair purpose. EO shall be re-fixed to the extent of duty component on repair expenditure and insurance and freight amount (to and fro).
- Power of RA to condone shortfall upto 5% of EO has been done away with.

5. Export Oriented Units (EOUs) Scheme (Effective from December 5, 2017)

- EOUs are allowed to sell only 50% of the FOB value of exports in DTA. This restriction has been removed now and EOUs can now sell in DTA without any restriction. The only restriction placed on EOUs is achievement of positive NFE.
- EOUs need to pay applicable GST on clearance of finished goods in DTA. In parallel, EOUs need to pay following benefits claimed on procurements:
 - Imported goods: BCD on goods used for the manufacture of finished goods supplied in DTA
 - Indigenous goods: Supplies made to EOU are considered as deemed export and either the supplier or EOUs can claim incentives on such supplies. In case EOU has used indigenous goods to manufacture goods which are supplied in DTA, then the person who claimed such incentive (either EOU or supplier) needs to surrender the incentive
- Procedure for inter-unit supply of goods between EOUs has been amended as under:
 - Such supply need to be made on payment of GST (if applicable) and shall be accompanied with the commercial documents (tax invoice and delivery challan)
 - The supplier shall compute and communicate the benefit of BCD exemption on inputs used in manufacture of finished goods to the recipient. If the recipient transfers the goods in DTA, it need to reverse the benefit claimed by supplier EOU along with benefit claimed by it
 - On receipt of goods, the recipient need to submit endorsed copy of invoice to its jurisdictional customs authorities as well as jurisdictional customs authorities of supplier
- Application for conversion of an existing DTA unit to EOU need to be placed for Board of Approval where the turnover or investment is more than Rs.50 Crores.

6. Deemed Exports (Effective from July 1, 2017)

- There is no change in the supplies categorized as deemed exports vis-a-vis previous FTP. These supplies *inter-alia* include:
 - Supplies to Advance Authorization holder
 - Supplies to EPCG Authorization holder
 - Supplies to EOUs
 - Earlier, taxpayers making deemed exports, were eligible to claim benefit of EPCG Scheme along with Advance Authorization or Deemed duty drawback. Deemed exporter was allowed to claim only higher rate of duty drawback (AIR) subject to the condition of non-availment of CENVAT credit. Deemed exporter was not allowed to claim lower rate of drawback.
 - Now, the deemed exporter is allowed to claim the following benefits:
 - EPCG Authorization
 - Advance authorization or deemed duty drawback
- Notably, such deemed duty drawback is allowed only by way of brand rate of drawback of BCD. The deemed exporter can still not claim lower rate of duty drawback.
- The benefit of refund of Terminal Excise Duty (TED) shall also continue in respect of supplies qualifying as deemed export which attract excise duty (e.g. petroleum products).

Trust you will find this insight useful.

For any clarification, please feel free to reach out to us.

Best regards
Team Nitya