



## NITYA'S INSIGHT

*NITYA Update | DRI investigates Advance Authorization holders*

September 11, 2018

Dear Reader,

This is to update you about the recent investigations initiated by the DRI on the exporters in respect of benefit of duty exemption claimed under the Advance Authorization scheme.

***Background***

The Advance Authorization scheme under Foreign Trade Policy, 2015-20 ('FTP') allows duty free import of inputs which are physically incorporated in the export products. Vide Notification No. 18/2015-Customs dated April 1, 2015 ('Exemption Notification'), the Government exempted inputs imported into India against a valid Advance Authorization license from the duties of customs (including basic customs duties, additional duties like countervailing duty, special additional duty etc.).

The Exemption Notification lays down specific conditions in respect of imports made before and after the discharge of export obligation under the Advance Authorization scheme. Hence, prior to the introduction of GST law, the duty exemption under Advance Authorization could be availed in respect of imports made before exports as well as in cases where the exports precede the imports.

***Position under GST***

Under the GST law, vide Notification No. 79/2017-Cus dated October 13, 2017, the duty exemption under the Exemption Notification was made available to IGST and Compensation cess as well till March 31, 2018. This has further been extended till October 1, 2018 vide Notification No. 35/2018-Cus dated March 28, 2018. However, such exemption has been made subject to the condition of pre-import (i.e. exports to take place post the import of goods).

Consequent to the above, if pre-import condition is not fulfilled then exporters will not be able to claim the benefit of duty-free import to the extent of Integrated tax and Compensation Cess. This condition is inconsistent with the earlier position wherein the benefit of exemption on imports could be availed post fulfilment of export obligation.

***Issue involved***

Given the peculiar condition created under the GST regime, DRI has started issuing notices to exporters who have availed the exemption in respect of IGST and Compensation cess without abiding by the condition of pre-import.

**That said, it is advisable that exporters availing the benefit of Advance Authorization for IGST and Compensation Cess should ensure that the imports precede export of goods.**

Trust this update is useful. We can discuss in case of any clarification.

Regards,

Team NITYA



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