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## **Remission of Duties and Taxes on Exported Products (RoDTEP) – Concept, Procedure and Key Issues**

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## 1. Background

In October 2019, the World Trade Organization ('WTO') held that Indian export subsidy schemes like Merchandise Exports from India Scheme ('MEIS'), Export Oriented Units ('EOUs') etc. violate the Agreement on Subsidies and Countervailing Measures ('SCM Agreement'). Accordingly, WTO directed India to discontinue these schemes. India has appealed against this ruling before WTO's Appellate Body and the same is pending final decision.

For adhering to the SCM Agreement, India decided to introduce new incentive scheme for export products viz. **Remission of Duties and Taxes on Exported Products** ('RoDTEP Scheme') and discontinue MEIS Scheme. Union Cabinet approved RoDTEP Scheme on March 13, 2020.

While the Government announced introduction of RoDTEP Scheme from **January 1, 2021** and discontinuation of MEIS Scheme from such date, the Government did not issue any Notification detailing out RoDTEP Scheme, its procedures, rates etc. during last 8 months.

Yesterday, Ministry of Commerce and Industry introduced legal provisions relating to RoDTEP Scheme in Chapter 4 of Foreign Trade Policy 2015-20 ('FTP') as well as notified rates on various export products (Appendix 4R of FTP) vide **Notification No. 19/2015-20 dated August 17, 2021**. It is pertinent to note that necessary Rules & Procedures on manner of application, documentation, grant of scrips etc. will be notified by Central Board of Indirect Taxes & Customs ('CBIC') in due course.

## 2. Objectives and features of RoDTEP Scheme (Para 4.54 of FTP)

### 2.1 Rebate of duties, taxes and levies incurred in production & distribution of export goods

Para 4.54(i) of FTP provides that RoDTEP Scheme aims to refund all embedded Central, State and Local duties, taxes and levies incurred in production (including at prior stage) and distribution of export goods. RoDTEP Scheme would not be available for duties, taxes and levies already exempted, remitted or credited under other Schemes.

### 2.2 Budgeted outlay for RoDTEP Scheme

Para 4.54 (iv) and (v) of FTP provide that RoDTEP Scheme will operate based on budget allocated by Ministry of Finance. The Department of Commerce ('DoC') will review rates on annual basis and notify them before commencement of every financial year ('FY').

The rates may be subject to calibrations and revisions on need basis to ensure that quantum of benefit remains within budgeted outlay. There shall be no carry forward of arrears or contingent liability for RoDTEP Scheme to next FY.

Para 4.54 (vi) of FTP empowers DoC to decide sequence of introduction of RoDTEP Scheme across sectors, prioritization of sectors, degree of benefit, ceiling within prescribed rates etc.

**NITYA Comments:** *It is shocking that RoDTEP Scheme is driven by budgeted outlay than export promotion. This means that if India's exports exceed Government's estimates, then exporters will get lesser benefit because of budget allocation. Resultantly, exporters do not have any certainty on getting benefit at prescribed rates as there may be reductions basis budget allocation, prioritization of sectors etc.*

### 2.3 Quantum of benefit

Para 4.54(vii) of FTP prescribes that benefit shall be granted as fixed percentage of FOB value of export goods with value cap per unit on some products. For certain products, benefit shall be granted as fixed amount per unit.

***NITYA Comments:** The notified rates range from 0.3% to 4.30% as compared to 2% to 7% earlier available in MEIS Scheme. This is disappointing and much below proposed rates represented by exporter community based on actual incidence of taxes incurred in relation to export goods. This effectively means that even after introduction of RoDTEP Scheme, exporters will not get full compensation of various taxes incurred in relation to production and distribution of export goods.*

*Surprisingly, there are multiple Chapters like Chapters 72 and 73 covering iron and steel products that are conspicuously missing from Appendix 4R thereby indicating that no benefit will be available on export of such products.*

### 2.4 Realization of export proceeds

Para 4.54(viii) of FTP states that benefit shall be allowed only if export proceeds are realized. If export proceeds are not realized within time allowed under the Foreign Exchange Management Act, 1999, benefit will not be granted or if granted, will be withdrawn.

***NITYA Comments:** This indicates that the Government will in-built adequate checks to identify cases where export proceeds are not realized. Notably, this Para also provides that safeguards for non-realization of export proceeds and other systemic improvements in Drawback and GST refunds will also apply for RoDTEP Scheme.*

### 2.5 Power of Government to make Rules and procedures

Para 4.54(ix) of FTP provides that CBIC would issue detailed Rules & Procedures for claiming benefit like manner of application, time period for application, export documentation, recovery in case of non-realization of proceeds, suspension or withholding of RoDTEP Scheme in case of frauds or misuse as well as for imposition of penalty.

## 3. **Ineligible categories of exports and exporters (Para 4.55 of FTP)**

- Export of imported goods covered under paragraph 2.46 of FTP
- Exports through trans-shipment
- Export goods subject to minimum export price or export duty
- Goods restricted / prohibited for export under Schedule-2 of Export Policy in ITC (HS)
- Deemed Exports
- Supplies of goods manufactured by DTA units to SEZ / FTWZ units
- Goods manufactured in EHTP and BTP

- Goods manufactured partly or wholly in warehouse under Section 65 of the Customs Act, 1962
- Goods manufactured or exported by 100% Export Oriented Unit ('EOU')
- Goods manufactured or exported by units in Free Trade Zones ('FTZ') or Export Processing Zones ('EPZ') or Special Economic Zones ('SEZ')
- Goods manufactured or exported by availing benefit under Notification No.32/1997-Customs dated April 1, 1997 (Jobbing Notification)
- Exports for which electronic documentation in ICEGATE EDI is not generated
- Exports from non-EDI ports
- Goods taken into use after manufacture (used goods)
- Goods manufactured or exported in discharge of export obligation against Advance Authorization ('AA') or Duty-Free Import Authorization ('DFIA') or Special Advance Authorization ('SIA')

Para 4.55B of FTP also provides that exports by EOU, FTZ / EPZ / SEZ unit and by AA / DFIA / SIA holders may be subsequently included in RoDTEP Scheme and rates thereof will be decided by RoDTEP Committee.

***NITYA Comments:*** Government has presently not provided benefit of RoDTEP Scheme for exports made by SEZ / EOU / AA holders etc. Further, the Government has not provided any clarity as to what factors will be considered by RoDTEP Committee in deciding rates for such exports.

*This is grossly unfair. RoDTEP Scheme aims to reimburse taxes like Excise Duty and VAT on fuel, Electricity Duty etc. which are not otherwise exempted / refunded under present Schemes. Hence, RoDTEP benefit is over and above existing Schemes. There was legitimate expectation of availability of RoDTEP Scheme along with benefits like AA etc. and to exporters like SEZ, EOU etc. This has resulted in an anomalous situation as an exporter can claim RoDTEP benefit along with Duty Drawback but not with Advance Authorization though both Duty Drawback and AA refund / exempt custom duties on imported inputs.*

*Exporters can consider filing representation with RoDTEP Committee to correct this anomaly and provide benefit to SEZ / EOU / AA holders etc. as well.*

*For goods for which All Industry Rate of Duty Drawback does not fully compensate incidence of custom duties on imported inputs, exporters can consider shifting from AA to Brand Rate of Duty Drawback. Under Brand Rate of Duty Drawback, though there will be cashflow issues of first depositing and then getting refund, still exporters will get full compensation of custom duties on imported inputs as well as benefit under RoDTEP Scheme.*

*It is pertinent to note that benefit under RoDTEP Scheme is available to EPCG Authorization holders as well.*

## 4. Procedure to claim benefit under RoDTEP Scheme

### 4.1 Declaration on shipping bill

Exporters will be required to declare their intention to claim RoDTEP for each export item on Shipping Bill or Bill of Export. For this purpose, following changes have already been made in Customs Automated System on ICEGATE portal:

- Exporters need to make following declaration in **SW INTO TYPE Table** of Shipping Bill:

**INFO TYPE = DTY**

**INFO QFR = RDT**

**INFO CODE = RODTEPY** (if RoDTEP availed) or **RODTEPN** (if RoDTEP not availed)

INFO MSR = Quantity of items in Statistical UQC as per the Customs Tariff Act for that item  
RITC

INFO UQC = UQC for Quantity indicated in INFO\_MSR

- In case RODTEPN is selected in Shipping Bill, RoDTEP would not accrue to exporter. **Further, no changes will be allowed after filing of EGM**

### 4.2 Generation of Duty Credits / Electronic Scrip in Electronic Ledger

Based on exporter's declaration in Shipping Bill, DGFT will process RoDTEP claim. Shipping Bill with RODTEPY declaration, will be routed for officer intervention basis risk-based targeting by RMS. Accepted Shipping Bill will move to respective scrolls for disbursement of benefit. Option to generate RoDTEP scroll is currently disabled till Electronic Ledger module is enabled by CBIC. Once scroll is generated, benefit will be available as Credits in Electronic Ledger on ICEGATE portal.

### 4.3 Generation of scrips

Exporter not registered with ICEGATE, will be required to register themselves for generation of Scrips. Exporter will be required to convert credits (generated through scrolls) into Scrips. Export can club multiple Shipping Bills for generating Scrips.

### 4.4 Utilization of scrips

Exporters can use such scrips for payment of Basic Customs Duty.

Exporters can also transfer such e-scrips to any other entity having IEC and ICEGATE registration.

Customs Officer will be empowered to suspend Scrips. Once suspended, transfer or utilization of Scrips will not be allowed.

***NITYA Comments:** While sale of Scrips will be exempt under GST, exporters selling such scrips will need to reverse Input Tax Credit pertaining to such exempt supply.*

## 5. Maintenance of records (Para 4.57 of FTP)

Exporters would be required to maintain proper records substantiating claims made under the RoDTEP Scheme. Government may physically verify such records on sample basis based on risk and other relevant parameters.

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