CHAPTER 9

Promoting Cross Border Trade in Digital Economy

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Promoting Cross Border Trade In Digital Economy

9.00 Policy

The given chapter elaborates on the procedures in relation to the Policy as notified under 'Cross Border E-Commerce from India' i.e., Chapter 9 of the Foreign Trade Policy.

9.01 Foreign Trade Policy Benefits/Schemes to e-Commerce Exporters

Suitable IT enablement shall be undertaken to ensure seamless delivery of Foreign Trade Policy Benefits/Schemes to e-Commerce Exporters.

9.02 E-Commerce Export Hubs (ECEHs)

a) Creation of ECEH

i. Application for creation/notification of an ECEH area shall be made to the DGFT.

ii. The authority for approval for an ECEH vests with the DGFT. DGFT shall constitute a committee for evaluation of ECEH applications. The Committee shall have a member from the Department of Revenue besides any other members as required from time-to-time.

iii. DGFT may specify export products or markets, which shall not be eligible for ECEH operations. The negative list of items that cannot be dealt within the ECEHs shall be notified separately.

b) Administration of ECEH

i. The ECEH developer shall provide an annual statement of accounts as per instructions in this regard.

ii. DGFT shall notify procedures for supervision and inspections at ECEHs. An independent evaluation and assessment mechanism may also be developed.

9.03 Registration, Inventory Management, and Operational Obligations of the Exporter-on-Record

i. An application for registration as an Exporter-on-Record shall be made in the form and manner prescribed in Aayaat Niryaat Form (ANF) 9A, along with the documents specified therein.

ii. The Exporter-on-Record shall intimate DGFT of any change in the particulars furnished at the time of registration, within 30 days from the date of such change, in a revised ANF-9A. Upon receipt of such intimation, DGFT may examine whether the Exporter-on-Record continues to satisfy the eligibility conditions prescribed under the Framework and may confirm, modify, suspend or cancel the registration, as may be appropriate.

iii. The digital repository maintained as per Para 9.16 of the Foreign Trade Policy shall:

a. be accessible to DGFT and such other authorities as may be authorised under applicable law from time to time, and shall remain operational regardless of the multiplicity of locations at which Export Inventory is held; and

b. link procurement records, GST invoices and export documents of the Exporter-on-Record to the records of each Seller-on-Record.

iv. The Exporter-on-Record shall ensure that goods held in Export Inventory match the descriptions, specifications, and quality parameters as declared by the Seller-on-Record.

v. The Exporter-on-Record shall be solely responsible for ensuring that goods held in the Export Inventory, prior to export, comply with all applicable laws, regulations, and requirements of the destination country, including:

a. testing, inspection, certification, accreditation, registration, licensing, approvals, and conformity assessments; and
b. labelling, packaging, marking, product information, safety warnings, and any other product presentation or market access requirements.

vi. The administrative charge referred to in Para 9.17(iv) of the FTP shall not exceed 10% of the gross amount of Export Rebates and Refunds.

vii. Seller-attributable Export Benefits shall be disbursed to the Seller-on-Record within 30 days of receipt of Export Rebates and Refunds by the Exporter-on-Record.

viii. The process and modalities for claiming Export Rebates and Refunds may be reviewed by DGFT during the pilot phase.

9.04 Rights and Visibility of Seller-on-Record

i. Exporter-on-Record shall provide each Seller-on-Record with access to consolidated digital records of Export Inventory management and segregation pertaining to goods supplied by that Seller-on-Record to the Exporter-on-Record.

ii. The digital records made accessible to the Seller-on-Record under this paragraph shall include, as a minimum, the following information pertaining to the goods supplied by that Seller-on-Record:

a. final sale price to the buyer outside India;
b. order status;
c. shipment tracking details and destination country.

iii. The Exporter-on-Record shall ensure that the identity of the manufacturer or brand owner of the goods, and where the Seller-on-Record is different from the manufacturer or brand owner, the identity of the Seller-on-Record, is appropriately disclosed to the buyer through the product listing or such other means as may be applicable.

9.05 Reverse Logistics and Returned Consignments

i. The Exporter-on-Record shall return the goods received from the Seller-on-Record that fail to meet the required descriptions, specifications, or quality parameters, within 7 days of acceptance or deemed acceptance of those goods by the Exporter-on-Record.

ii. Returned or rejected consignments received from buyers outside India shall be re-exported, returned to the Seller-on-Record, or disposed of by destruction or such other means as may be agreed, not later than 30 days from the date of receipt of such consignment in India.

iii. Terms governing the handling of such goods, including cancellation, return or rejection of the export order, repair, re-export, destruction or disposal of goods, shall be explicitly defined in the agreement between Seller-on-Record and Exporter-on-Record. Such terms shall be fair, transparent, and verifiable.

9.06 Compliance Certification

i. The Exporter-on-Record shall obtain from an independent Chartered Accountant, Cost Accountant, or such other professional as may be specified by DGFT, a certificate confirming compliance with the obligations prescribed under this Framework, including those relating to:

a. maintenance and segregation of Export Inventory;
b. prohibition on domestic diversion of Export Inventory, including in respect of returned or rejected consignments;
c. seller visibility and brand disclosure obligations;
d. payment settlement, including compliance with the payment period and the Export Rebates and Refunds disbursement period;
e. accuracy of Export Rebates and Refunds apportionment calculations; and
f. handling and disposal of returned or rejected consignments.

ii. The Exporter-on-Record shall be required to provide all books of account, records and assistance reasonably required for completion of the certification.

iii. A certificate of compliance shall be furnished by the Exporter-on-Record to DGFT within 90 days from the end of each financial year in respect of that financial year, or at such other intervals as DGFT may prescribe.

iv. The Exporter-on-Record shall maintain and preserve all records relating to operations under this Framework for a period of five years from the end of the financial year in which the Export Inventory concerned is finally exported, re-exported, returned, rejected, destroyed or otherwise disposed of.

v. The obligation to maintain and preserve records shall survive the cancellation, suspension, or voluntary surrender of registration as Exporter-on-Record and shall continue to bind the entity for the full five-year period from the relevant financial year.

9.07 Dispute Resolution

i. Any dispute or grievance between the Exporter-on-Record and the Seller-on-Record arising under this Framework may be referred to the Regional Authority of DGFT having jurisdiction. The Regional Authority shall provide the Exporter-on-Record and the Seller-on-Record a reasonable opportunity of being heard and shall endeavour to facilitate resolution of the dispute or grievance within 30 days from the date of receipt of the complaint, without prejudice to the rights of the parties under applicable law.

ii. For the purposes of this Framework, the dispute shall lie before the Regional Authority of DGFT having jurisdiction over the place of business of the Seller-on-Record from which the supply forming the subject matter of the dispute was made.

iii. Where the dispute or grievance remains unresolved after the expiry of the period specified, or where the Regional Authority considers that the matter requires further examination, it may, for reasons to be recorded in writing, refer the matter to DGFT (Headquarters) for further examination. DGFT (Headquarters) may call for such records, information or comments from the parties or the Regional

Authority as it considers necessary before issuing such administrative directions or recommendations as may be considered appropriate under this Framework.

iv. Nothing in this para shall derogate from the rights of a Seller-on-Record that is a micro or small enterprise under the Micro, Small and Medium Enterprises Development Act, 2006, including the right to make a reference to the Micro and Small Enterprises Facilitation Council under Section 18 of that Act.

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