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CHAPTER 7

Deemed Exports

Chapter-7

Deemed Exports

7.00 Policy

Policy relating to Deemed Exports is given in Chapter 7 of FTP.

7.01 General Provision

- (a) Supplier / Recipient of goods shall submit application for claiming deemed export benefits, in ANF-7A, along with the documents prescribed therein, to the Jurisdictional RA as per Appendix 1A except for category (b) mentioned therein.
- (b) For supply of goods to an EOUs only, DTA supplier shall claim benefits from Jurisdictional RA and recipient EOU unit shall file application to Jurisdictional Development Commissioner of SEZ as per Appendix 6J for claiming benefits provided supplier has not claimed any benefit from Jurisdictional RA.

7.02 Criteria for claiming Benefits

- (a)
 - (i) In respect of supply of intermediate goods to Advance Authorisation / DFIA holder, against Invalidation Letter, issued in terms of Paragraph 4.30 of HBP, application to obtain Advance Authorisation for import of duty free inputs, as provided under Chapter 4 of FTP, shall be made as per procedures given in Chapter 4 of HBP. For supplies against invalidation letter, TED refund shall be given in accordance with para 7.03(c) of FTP, provided, there is no exemption.
 - (ii) In respect of supply of goods to Advance Authorisation / DFIA, against ARO, procedure given in Chapter 4 of the HBP shall be followed. TED refund for supplies against ARO shall be allowed in accordance with para 7.03(c) of FTP, provided, there is no exemption. Duty Drawback shall be allowed in accordance with para 7.06 of FTP.
- (b) In respect of supply of goods to EOU / EHTP / STP / BTP, Advance Authorisation / DFIA can be obtained as per procedure given in the Chapter 4 of HBP for exemption from payment of Terminal Excise Duty, procedure as per Excise Circular number 851/9/2007-CX dated 3.5.2007 read with circular No. 10/2009- Cus dated 25.2.2009, shall be followed for removal of goods against CT-3. TED refund shall be given for supply of goods to EOU / EHTP / STP / BTP in accordance with para 7.03(c) of FTP, provided, there is no exemption. In case Advance Authorisation, as

provided in Chapter 4 of FTP, is not obtained for import of duty free inputs against such supply, drawback claim for basic custom duty paid on inputs, used in the resultant product, shall be filed with the DC concerned. A DTA Unit shall claim benefits from the concerned RA.

(c) In respect of supply of goods to an EPCG Authorisation holder, against Invalidation Letter, application for Advance Authorisation / DFIA shall be made as per procedures given in Chapter 4 of HBP. If Advance Authorisation / DFIA is not obtained for duty free inputs, Duty drawback shall be allowed on basic custom duty paid on inputs used in the resultant product.

(d) In respect of supply of goods to other categories as listed in the Paragraph 7.02 (d), (e), (f) & (g) of FTP, Advance Authorisation / DFIA for import of duty free inputs as provided under Chapter 4 of FTP may be obtained against Project Authority Certificate as per Appendix-7C. However, if Advance Authorisation / DFIA is not obtained against such supplies for duty free inputs as provided in Chapter 4 of FTP, claim for duty drawback for basic custom duty may be filed as per ANF-7A. TED refund for projects mentioned in para 7.08(iii)(a) of FTP in respect of eligible items of supply covered under schedule IV of Central Excise Act, 1944, shall be available provided there is no exemption.

7.03 Procedure for claiming benefits

(a) Application shall be filed online either by supplier or by recipient of goods, having IEC Number as per para 7.01 of HBP.

(b) Application can be made by Registered office / Head office or Manufacturing unit.

(c) Applicant shall upload documents as prescribed in ANF- 7A, if any, at the time of online filing of application. No physical copy of application is required to be submitted to Regional Authority.

(d) In case recipient unit files claim for TED / Duty Drawback, disclaimer certificate as prescribed in the Annexure-III to ANF-7A shall be obtained from supplier and shall be submitted along with the application. In case supplier of the goods is an applicant then the disclaimer certificate from the recipient of the goods shall be submitted.

(e) Claim can be filed only after payment is received in full, to the extent of supplies made for supplies covered in Para 7.08 A (a) to (c) of FTP. However, for supplies covered in Para 7.02 B (d) to (g) of FTP, Para 7.05 (b) of HBP is applicable.

(f) Claim can be filed against payment received through normal banking channel, as per e-BRC. In other words, supply documents have to be negotiated through bank only. In respect of supplies covered under Paragraph 7.02 (d) to (g) of the FTP, payment certificate issued by Project Authority, in Appendix-7D, has also to be submitted.

(g) Sub-contractor can also file claim provided its name is endorsed in the Project Authority Certificate / Contract before supply of such goods.

7.04 Procedure for claiming TED refund on Fuel

For supply of High Speed Diesel (HSD) from Depots of domestic oil Public Sector Undertakings under Paragraph 7.02(b) of FTP, terminal excise duty shall be refunded on the basis of duty paid certificate issued by concerned domestic oil Public Sector Undertaking in the format given in Annexure-IV to ANF-7A. Duty refund will be allowed for quantity of HSD procured by EOU / EHTP / STP / BTP unit for its production activities, as certified by concerned DC / Bond authorities.

7.05 Frequency of application and time period for claiming TED / Drawback

(a) In respect of supplies covered in Paragraphs 7.02 (a) to (c) of FTP, application for TED refund / drawback (whichever applicable) may be filed within 12 months from the date of realisation of 100% payment against such supplies. In cases where payment is received in advance and supply is made subsequently, in such cases application can be filed within 12 months from the last date of such supplies. Claim can be filed 'Invalidation Letter / ARO wise' against individual Authorisation within the time limit as specified above.

(b) In respect of supplies covered in Paragraphs 7.02 (d) to (g) of FTP, claim may be filed either on the basis of proof of supplies effected or payment received. Claims should be filed within a period of twelve months from date of receipt of supplies by project authority or from date of receipt of the payment by supplier as per the option of applicant, either against a particular project or all the projects. Claims may also be filed where part payments have been received. Deemed export benefits may be allowed after 100% supplies have been made. However, benefit will be limited to the extent of payment received.

(c) An application under ANF 7A shall pertain to only one category of supply as specified in Para 7.02 of the FTP. Filing a single application for multiple categories of supplies under Para 7.02 of FTP is not permissible.

7.06 Rate of Drawback

Normally drawback may be allowed as per All Industry Rate fixed by DoR in the Drawback Schedule where no CENVAT credit has been availed by supplier goods. However, an application in ANF-7A, along with documents prescribed in ANF-7A & Appendix-7E, may be made to RA or DC concerned, as the case may be, for fixation of brand rate where All Industry Rate of Drawback is not available or same is less than 4/5th of duties actually paid on raw materials or components used in the production or manufacture of the said goods.

7.07 Time barred / supplementary claim

In case claim is filed after prescribed time period, provision of late cut, under Paragraph 11.02 of HBP and provision of supplementary claim under Paragraph 11.03 of HBP shall be applicable.

7.08 Exemption from payment of TED

For claiming exemption from payment of terminal excise duty, wherever applicable, procedure prescribed by Central Excise Authority shall be followed.

7.09 Applicability of other Rules

Subject to procedure laid down in HBP, Customs and Central Excise Duties and Service Tax Drawback Rules, 1995 or Customs and Central Excise Duties Drawback Rules, 2017, as the case may be, shall apply mutatis mutandis to deemed exports scheme.

7.10 Payment of interest

(a) RA shall make payment within 30 days from the date of issuance of Approval Letter. In case payment is not made within the time period as given above, then RA shall add interest component, along with principal amount, in accordance with paragraph 7.09 of the FTP. No separate application for claiming interest is required to be made. A single mandate shall be issued to the bank for principal amount and interest.

(b) If interest is not added by RA/DC, a separate application, as per ANF-7B may be filed, within 30 days from the date of receipt of principal amount. No interest shall be paid thereafter. RA shall maintain separate account for disbursement of principal amount and interest for accounting purpose.

(c) RA shall submit a monthly report regarding disbursement of deemed exports claims, in the proforma as given in Appendix-7F. Wherever interest is paid, RA shall inform the reason for payment of interest.

7.11 Internal Audit Mechanism

The zonal offices of Additional DGFT shall constitute Audit team in their offices as per paragraph 7.10 of FTP and shall carry out post Audit.