

# GST AND EXPORTS

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# INTRODUCTION TO GST

GST is known as the Goods and Services Tax. It is an indirect tax which has replaced many indirect taxes in India such as the excise duty, VAT, services tax, etc. The Goods and Service Tax Act was passed in the Parliament on 29th March 2017 and it came into effect on 1st July 2017.

**Goods and Services Tax Law in India is a comprehensive, multi-stage, destination-based tax that is levied on every value addition.** GST is a single domestic indirect tax law for the entire country. Under the GST regime, the tax is levied at every point of sale. In the case of intra-state sales, Central GST and State GST are charged. All the inter-state sales are chargeable to the Integrated GST.

The advantage of having one single tax means every state follows the same rate for a particular product or service. Tax compliance is also better as taxpayers are not bogged down with multiple return forms and deadlines. Overall, it's a unified system of indirect tax compliance. GST has also helped in widening the tax base in India.



**One of the primary objectives of GST was to remove the cascading effect of taxes.** Under GST, the tax levy is only on the net value added at each stage of the supply chain. This has contributed to the seamless flow of input tax credits across both goods and services. Introducing GST has also led to an increase in consumption and indirect tax revenues.

Due to GST being a nationwide tax and having a centralised surveillance system, the clampdown on defaulters is quicker and far more efficient. Hence, GST has curbed tax evasion and minimised tax fraud from taking place to a large extent.

GST minimises transportation cycle times, improves supply chain and turnaround time, and leads to warehouse consolidation, among other benefits. With the e-way bill system under GST, the removal of interstate checkpoints is most beneficial to the sector in improving transit and destination efficiency.

## IMPACT OF GST ON EXPORTS

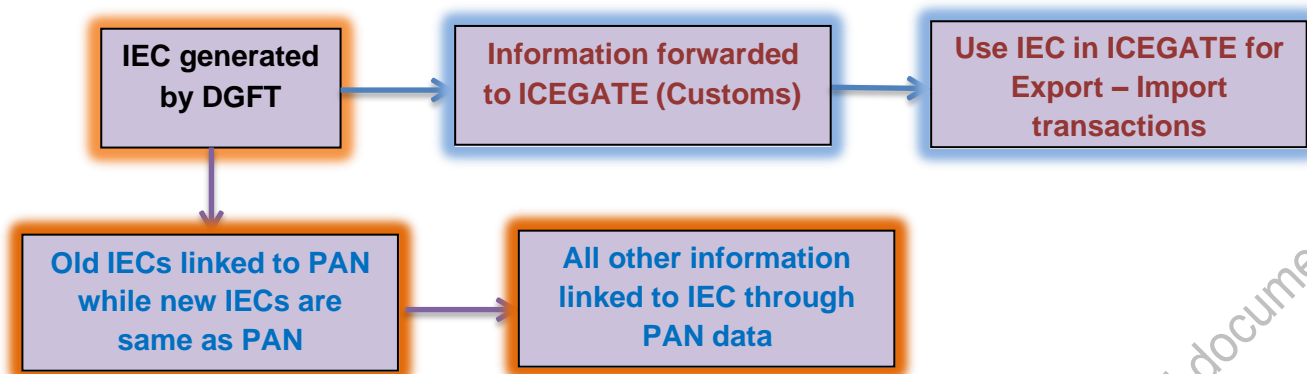
Exports are defined under Section 2(e) of the FTD&R Act, 1992. Export of goods, as per this definition, refers to taking goods out of India by land, sea or air. Section 7 of the act also mandates the use of an Importer-Exporter Code (IEC) for the purposes of import and export. This IEC is issued by the DGFT.

The definition of “export of goods” in section 2(5) of IGST Act has been straight taken from section 2(18) of the Customs Act, 1962 and means taking goods out of India to a place outside India.

### **Importer-Exporter Code**

For all IECs issued with effect from 1.07.2017, PAN number itself would be the IEC number and would be authorised as IEC.

The GSTIN is the key identifier at the transaction level. The importer/exporter needs to declare IEC and GSTIN (wherever registered with GST) at the time of import/export of goods. The PAN level aggregation of data would automatically happen in the system, thereby ensuring seamless integration of IEC data flowing to Customs along with GSTIN.



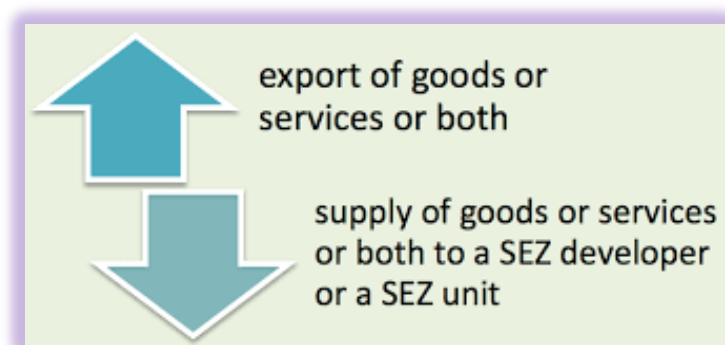
### Zero Rating of Exports:

**The export of goods or services is considered as a zero-rated supply.** GST will not be levied on export of any kind of goods or services. The exporter has the option either to export under bond/Letter of Undertaking without payment of tax and claim refund of ITC or pay IGST by utilizing ITC or in cash at the time of export and claim refund of IGST paid.

**Zero rating means that the entire value chain of the supply is exempt from tax.** This is done by employing the following means:

- The taxes paid on the supplies which are zero rated are refunded
- The credit of inputs/ input services is allowed or is refunded in cases where already paid

As per section 16 (1) of CGST Act, 2017 - “zero rated supply” means any of the following supplies of goods or services or both, namely:



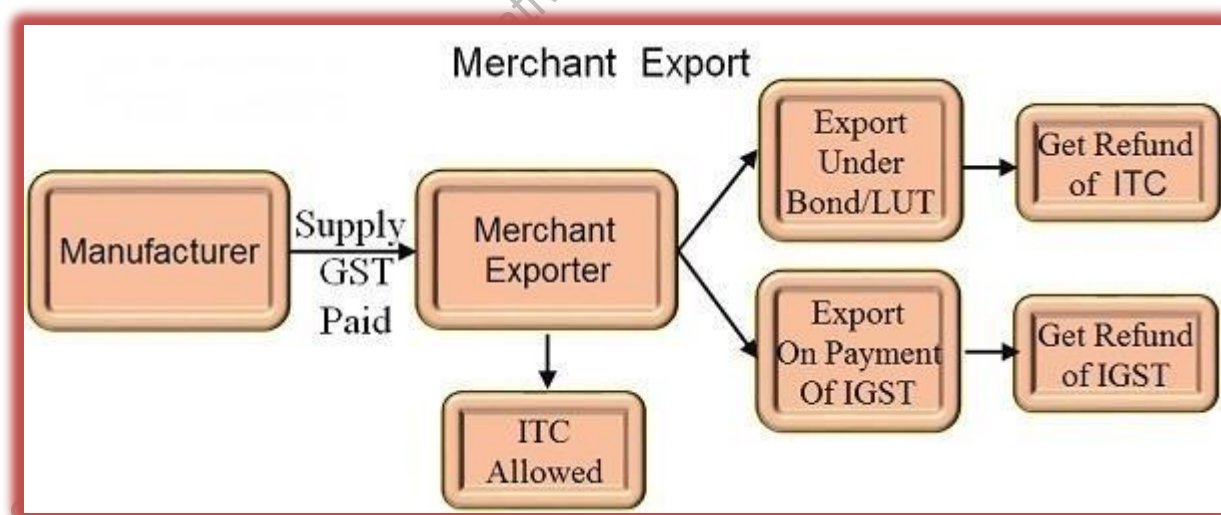
A registered person making zero rated supply shall be eligible to claim refund under either of the following options, namely:

- he may supply goods or services or both under bond or Letter of Undertaking, subject to such conditions, safeguards and procedure as may be prescribed, without payment of integrated tax and claim refund of unutilised ITC; or
- he may supply goods or services or both, subject to such conditions, safeguards and procedure as may be prescribed, on payment of integrated tax and claim refund of such tax paid on goods or services or both supplied,

### **Merchant Export**

A merchant exporter is a person who is involved in trading activity and exporting or intending to export. They do not have a manufacturing unit. They buy goods from a manufacturer-exporter and then ship them to foreign customers.

Merchant exports are liable to GST as the merchant exporter is located in India, and makes a supply to a place outside India. Thus, merchant exporters are compulsorily required to obtain registration under GST.



**Where a merchant exporter exports goods without payment of tax, procures goods at 0.1% and then claims refund of the same :**

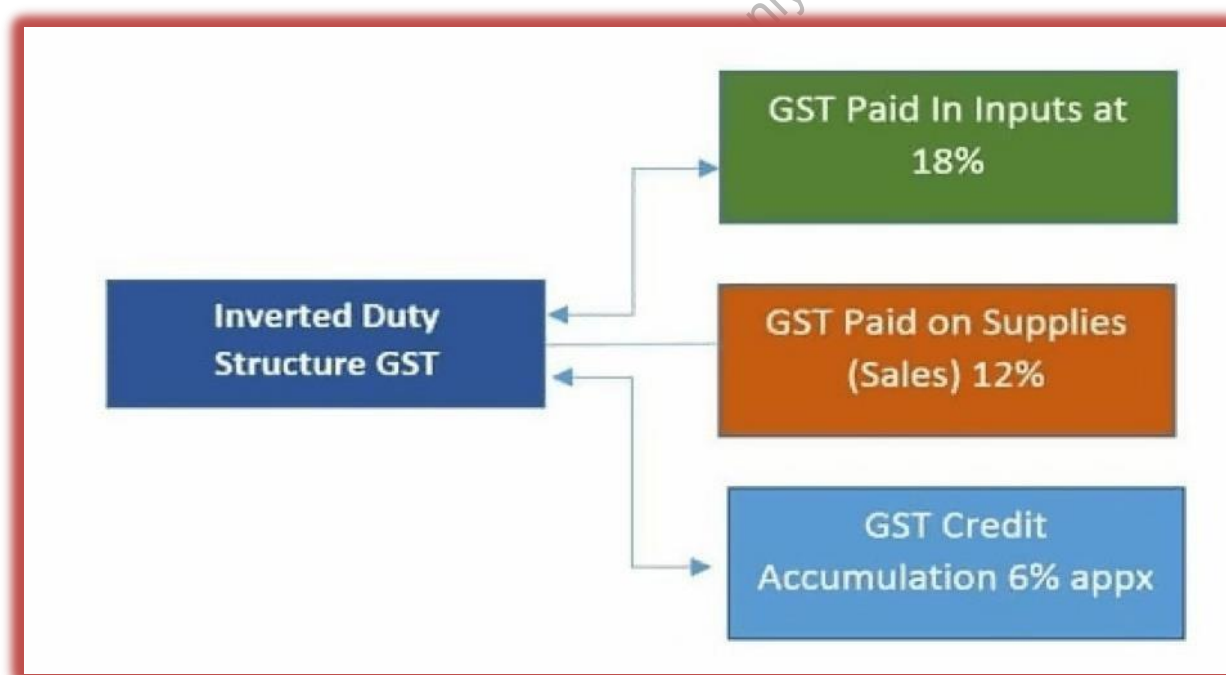
The merchant exporter can claim a refund of the unutilised ITC at the end of a tax period in case of zero-rated goods or goods involving an inverted tax structure.

**Where a supplier is supplying to a merchant exporter at a regular rate and exports are done with the payment of IGST :**

The standard tax regime will be followed by the supplier, where ITC shall be used for payment of output tax and the balance liability is to be paid in cash. Merchant exporters can claim a refund of both unutilised ITC and IGST paid against zero-rated supply.

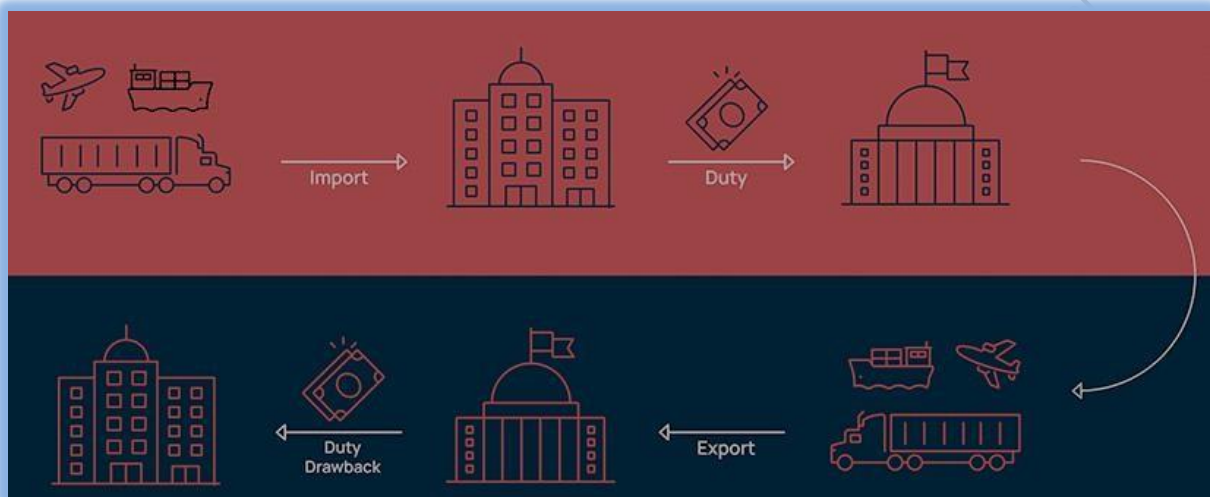
**Where a supplier of a merchant exporter procures goods from another supplier and claims refund under Inverted Duty Structure :**

The second supplier can claim a refund of ITC under an inverted tax structure (rate of tax on inputs is higher than the rate of tax on outputs). An illustration of Inverted Duty Structure is given below.



## Drawback/Refund

A duty drawback was provided under the previous laws for the tax paid on inputs for the export of exempted goods. Under GST, the duty drawback would only be available for the customs duty paid on imported inputs or central excise paid on certain petroleum or tobacco products used as inputs or fuel for captive power generation.



An exporter dealing in zero-rated goods under GST can claim a refund for zero-rated supplies as per the following options:

- Supply goods or services, or both, under bond or LUT; subject to such conditions, safeguards and procedure as may be prescribed, without payment of integrated tax, and then claim a refund of unutilised input tax credit.
- Any exporter or United Nations or Embassy or other agencies/bodies as specified in section 55 who supplies goods or services, or both, after fulfilling certain conditions, safeguards and procedures as may be prescribed; and paying the IGST, can claim refund of such tax paid on the supplied goods or services, or both.



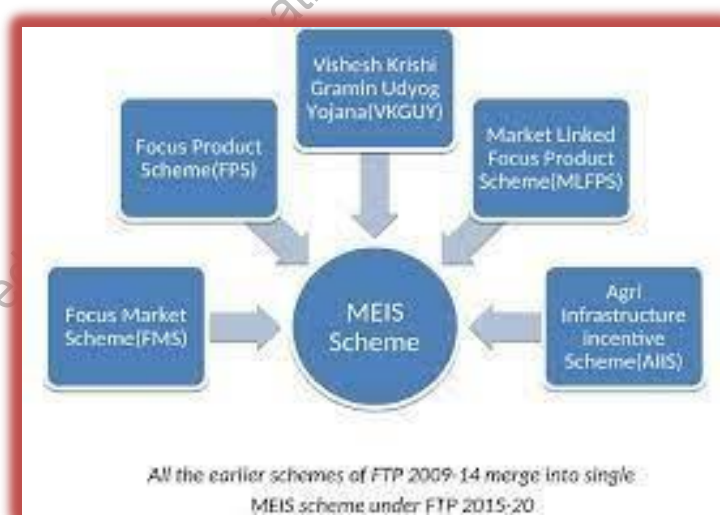
## Impact on MEIS and SEIS

These scrips can be utilized only for

1. Payment of Basic Customs Duty and Additional Customs Duty specified under sections 3(1), 3(3) and 3(5) of the Customs Tariff Act, 1975 for import of inputs or goods, including capital goods, as per DoR Notification, except items listed in Appendix 3A.
2. Payment of Central excise duties on domestic procurement of inputs or goods

Further, Additional Customs duty specified under Sections 3(1), 3(3) and 3(5) of the Customs Tariff Act, 1975 /Central excise duty paid in cash or through debit under Duty Credit scrip shall be adjusted as CENVAT Credit or Duty Drawback as per DoR rules or notifications. Basic Custom duty paid in cash or through debit under Duty Credit scrip shall be adjusted for Duty Drawback as per DoR rules or notifications.

**The scrips cannot be used for payment of any type of GST-IGST/CGST/SGST/UTGST or compensation cess.**



## SEZs

A Special Economic Zone (SEZ) is a zone wherein businesses enjoy simpler tax and easier legal difficulties. It is located in a country's national borders only, but they are treated as foreign territory for tax purpose.

In GST, SEZ will have Integrated Goods and Service Tax (IGST) as it will not be considered as a part of India. Export means taking goods or services out of Special Economic Zone by any mode of transport or supply of goods or service from one unit in the SEZ to another unit in another SEZ. Import means bringing goods or services into a Special Economic Zone by any mode of transport or receiving goods or services from one unit by another unit located in another SEZ.

Being in a SEZ gives advantage as any supply of goods or services or both to a Special Economic Zone unit or by developer will be considered as Zero Rated Supply.

Supplies to SEZ are considered as exports, the supplier supplying goods to SEZ can first supply under bond or he can make a letter of undertaking for making supply of without payment of IGST and can also claim credit of ITC or he can supply on payment of IGST and can claim refund.

When a SEZ unit or a developer supplies any goods or services or both to any one, it will be also considered as integrated supply and will attract the Integrated Goods and Service Tax (IGST).

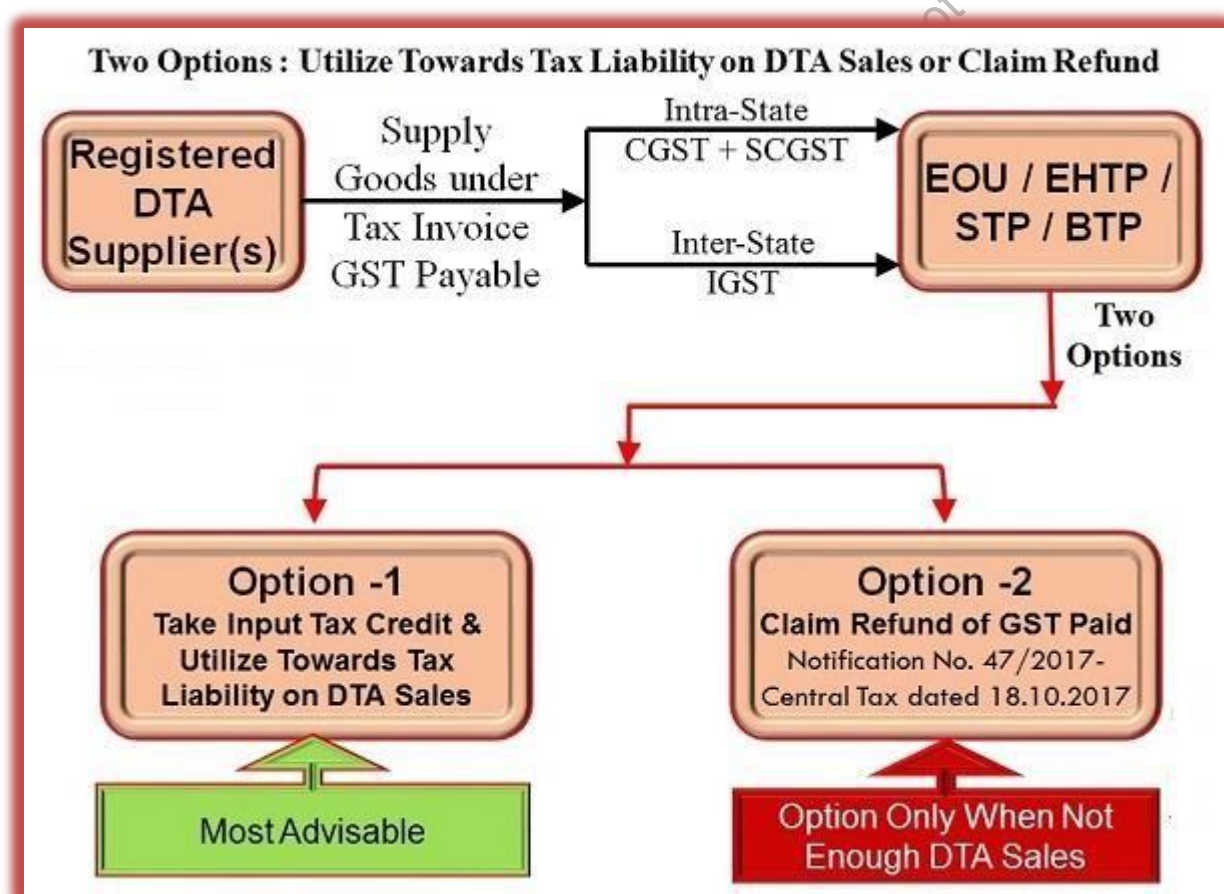
There is only one exception to above rule. If an SEZ unit supplies goods or service or both to Domestic Tariff Area (DTA), it will be considered as export to DTA and custom duties and import duties will be payable.

The transporter has to carry the E-Way Bill of transportation of goods from one place to another if the value is more than Rs. 50,000. The supply under SEZ is treated as inter-state supply. The developer of Special Economic Zone shall have to follow the same procedure of E-Way Bill as the other industry follows.

## EOUs

**Export Oriented Unit (EOU) scheme** was introduced in the year 1981. Under EOU scheme, units registered as a EOU are required to export their entire production of goods and services. However, certain portion is allowed to be sold out in domestic tariff area (DTA).

The main objective of introduction of Export Oriented Unit scheme is to increase exports, to increase foreign exchange earnings in the country and generate additional employment.



### Supply of Goods to EOU (Purchase by EOU from DTA)

Under GST, there is no exemption available to supplier of goods to EOU. IGST, CGST and SGST, as applicable, will be payable by the supplier who supplies the goods to EOU. EOU has two options to offset GST paid on goods received from suppliers, the options are narrated below:

- To take input tax credit of GST paid and utilizes the same towards supplies made by EOU to DTA.
- Claim refund of GST paid.

It is always advisable to go for the first option. Option 2 is available only when there are no enough DTA supplies against which input tax credit can be used.

### Supply of Goods by EOU

When EOU units supply admissible goods to DTA units, EOU units are required to pay applicable GST on such supply. Only in case of zero rated supplies, as defined under section 16 of the IGST Act (namely export of goods and services, or, supply of goods and services to SEZs), EOU are exempted from payment of GST.

### Supply from EOU to EOU

When the goods are supplied by one EOU to another EOU, such supply would be treated as any other supplies under GST law and hence GST would be payable on the same as payable under any other supplies.

### Tax Benefits for EOU under GST

The only benefit available to EOU unit is duty free import i.e. benefit of basic customs duty exemption is available to EOU.

Further, exemption from the additional duties of customs, if any, under section 3(1), section 3(3) and section 3(5) of the Customs Tariff Act, 1975 and exemption from central excise duty will be available for goods specified under the Fourth Schedule to the Central Excise Act.

## DEEMED EXPORTS

As per the Foreign Trade Policy, Deemed Exports refer to those transactions in which goods supplied do not leave the country, and payment is realized either in Indian currency or free foreign exchange. The precise categories of deemed exports are defined in Para 7.02 of the FTP.

“Deemed Exports” refers to supplies of goods manufactured in India (and not services) which are notified as deemed exports under Section 147 of the CGST/SGST Act, 2017. The supplies do not leave India. The payment for such supplies is received either in Indian rupees or in convertible foreign exchange.

**Deemed exports are not zero rated supplies by default, unlike the regular exports.** Hence all supplies notified as supply for deemed export will be subject to levy of taxes i.e. **such supplies can be made on payment of tax and cannot be supplied under a Bond/LUT.** However, the refund of tax paid on the supply regarded as Deemed export is admissible to either the supplier or the recipient. The application for refund has to be filed by the supplier or recipient (subject to certain conditions) of deemed export supplies, as the case may be.

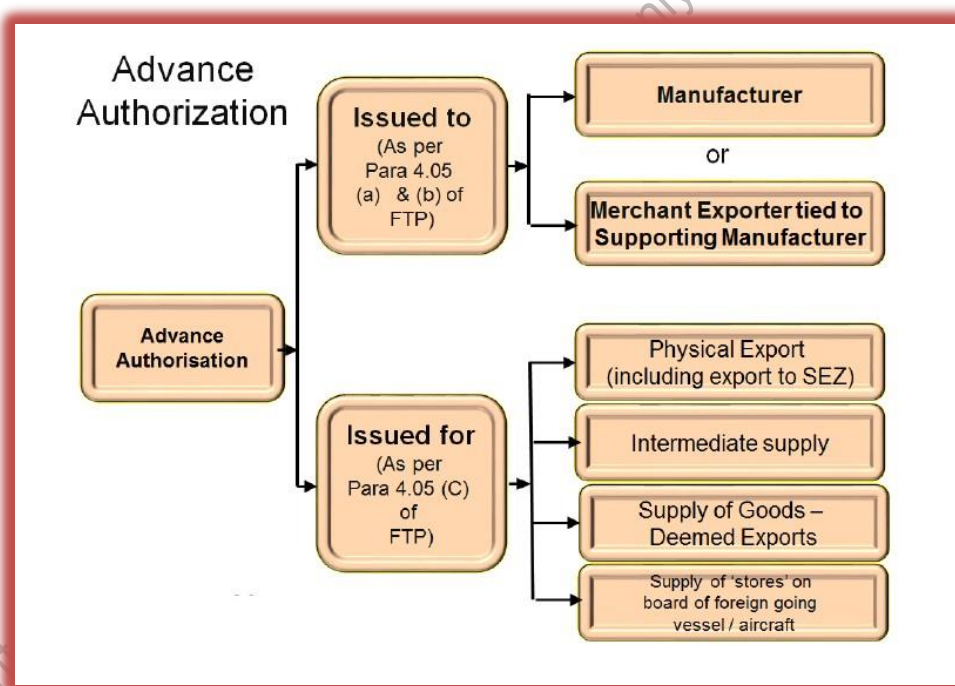
### **Categories of supply of goods notified as Deemed Exports as per para 7.02 of FTP:**

- Supply of goods by a registered person against Advance Authorisation
- Supply of capital goods by a registered person against Export Promotion Capital Goods Authorisation
- Supply of goods by a registered person to Export Oriented Unit (EOU/EHTP/STP)
- Supply of gold by a bank or Public Sector Undertaking specified in the notification No. 50/2017-Customs, dated the 30th June, 2017 (as amended) against Advance Authorization

## ADVANCE AUTHORIZATION

Advance Authorization is a scheme under the **Foreign Trade Policy** where the import of inputs is allowed to be made duty-free (after making normal allowance for wastage), if they are physically incorporated in a product which is going to be exported. An export obligation is usually set as a condition for issuing Advance Authorization.

Imports under Advance Authorization are exempted from payment of Basic Customs Duty, Additional Customs Duty, Education Cess, Anti-dumping Duty, Countervailing Duty, Safeguard Duty, Transition Product Specific Safeguard Duty wherever applicable. Imports against Advance Authorizations are exempted from Integrated Tax and Compensation Cess vide various DGFT notifications, the latest one being DGFT Notification No. 16/2015-20 dated 01.07.2022.



### **DUTY FREE IMPORT AUTHORIZATION**

Duty Free Import Authorization is issued to allow duty free import of inputs. In addition, import of oil and catalyst which is consumed/ utilized in the process of production of export product may also be allowed.

Duty Free Import Authorization shall be exempted only from payment of Basic Customs Duty (BCD).

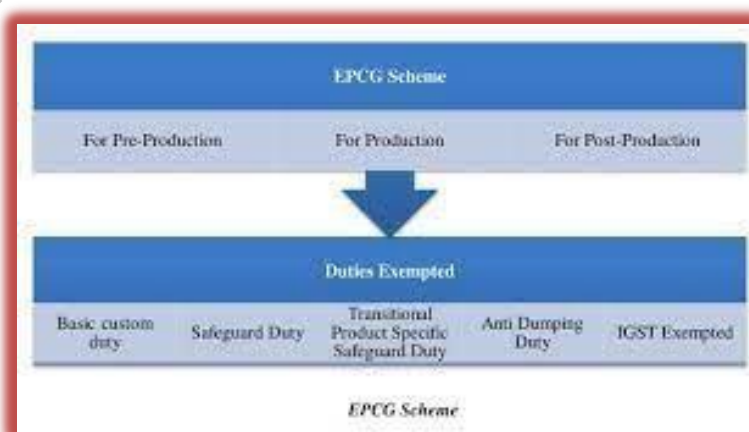
## EXPORT PROMOTION FOR CAPITAL GOODS

EPCG Scheme allows import of capital goods (except those specified in negative list in Appendix 5 F) for pre-production, production and postproduction at zero customs duty.

Capital goods for the purpose of the EPCG scheme shall include:

- Capital Goods as defined in Chapter 9 of FTP 2015-2020 including in CKD/SKD condition thereof.
- Computer systems and software which are a part of the Capital Goods being imported.
- Spares, moulds, dies, jigs, fixtures, tools & refractories.
- Catalysts for initial charge plus one subsequent charge.
- Import of capital goods for Project Imports notified by Central Board of Excise and Customs is also permitted under EPCG Scheme.

**Capital goods imported under EPCG Authorization for physical exports are also exempt from IGST and Compensation Cess under the Notification No. 37/2022 – Customs dated 30<sup>th</sup> June 2022.**





## IMPORTS AND IGST

The import of goods has been defined in the IGST Act, 2017 as bringing goods into India from a place outside India. **All imports shall be deemed as inter-State supplies and accordingly integrated tax shall be levied in addition to the applicable Custom duties.**

The integrated tax on goods shall be in addition to the applicable Basic Customs Duty (BCD) which is levied as per the Customs Tariff Act. In addition, GST compensation cess may also be leviable on certain luxury and demerit goods under the Goods and Services Tax (Compensation to States) Cess Act, 2017.

For imports made under Advance Authorization/EPCG schemes, the corresponding components under the respective headers are waived off, in the bill of entry. A sample scenario is presented below.

**The taxes will be calculated as under:**

Particulars		Duty(Rs.)
A	Assessable Value	100/-
B	Basic Customs Duty@10%	10/-
C	Education Cess @3%	0.3/-
D	Value for Integrated Tax	110.30
E	Integrated Tax @18%	19.85
F	Value for Compensation Cess	110.30
G	Compensation Cess @ 15%	16.55
H	Total Duty ( B+C +E+G)	46.70

In cases where imported goods are liable to Anti-Dumping Duty or Safeguard Duty, value for calculation of IGST as well as Compensation Cess shall also include Anti-Dumping Duty amount and Safeguard duty amount.



## **Place of Supply**

The place of supply of goods imported into India shall be the location of the importer. Thus, if an importer say is located in Telangana, the SGST component of the IGST paid at the time of import shall accrue to Telangana.

## **CUSTOMS BONDED WAREHOUSE**

**Supply of goods when the goods are still in Customs Bonded Warehouse:** In general, Customs Bonded warehouse is also treated as Customs Area. The customs duty is charged only when the goods are ex-bonded i.e when the goods are removed from the Customs bonded warehouse.

The integrated tax shall be levied and collected at the time of final clearance of the customs-bonded warehoused goods for home consumption i.e., at the time of filing the ex-bond bill of entry and the value addition accruing at each stage of supply shall form part of the value on which the integrated tax would be payable at the time of clearance of the warehoused goods for home consumption.



### **HIGH SEA SALES**

'High Sea Sales' is a common trade practice whereby the original importer sells the goods to a third person before the goods are entered for customs clearance. After the High sea sale of the goods, the Customs declarations i.e. Bill of Entry etc is filed by the person who buys the goods from the original importer during the said sale.

IGST on high sea sale (s) transactions of imported goods, whether one or multiple, shall be levied and collected only at the time of importation i.e. when the import declarations are filed before the Customs authorities for the customs clearance purposes for the first time. Further, value addition accruing in each such high sea sale shall form part of the value on which IGST is collected at the time of clearance.