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GOVERNMENT OF INDIA  
MINISTRY OF COMMERCE AND INDUSTRY

NOTIFICATION No. 17 / 2002-07  
NEW DELHI: the 7<sup>th</sup> November , 2002,

In exercise of powers conferred by Section 5 of the Foreign Trade (Development and Regulation) Act, 1992 (No. 22 of 1992) read with paragraph 1.1 of the Export and Import Policy, 2002-07, the Central Government hereby amends/corrects the Export and Import Policy, 2002-07 as under:

- 1) Since procurement of goods from EOU/EPZ/SEZ units is without payment of duty by advance licensing holder and is akin to imports , it has been decided that such supplies may be allowed by EOU/EPZ units against the licence/ certificate without the need to convert the same into ARO by amending the para 4.1.8 as under:  
  
4.1.8: “An Advance Licence holder or a holder of DFRC, intending to source the inputs from indigenous sources/state trading enterprises in lieu of direct import has the option to source them against Advance Release Orders denominated in foreign exchange / Indian Rupees. The transferee of a DFRC shall also be eligible for ARO facility. However, supplies may be obtained against the licence from EOU/EPZ/EHTP/STP/ SEZ units, without conversion into ARO.
- 2) A decision has been taken to mandate the production of a specific export licence/ certificate/ permission for export of items restricted as per the ITC (HS) under the Advance Licence for physical exports. Hence para 4.1.11 pertaining to the “Compliance with Export Policy” is deleted.
- 3) Some difficulties cropped up for the issue of LOI/ LOP to units approved prior to April 2002. This was deliberated upon and it has been decided to amend para 6.6(a) as under:

6.6(a) On approval, a Letter of Permission (LOP)/Letter of Intent (LOI) shall be issued by the Development Commissioner to EOU/EPZ/EHTP/STP unit. The LOP/LOI shall have an initial validity of 3 years. Its validity may be extended by another 3 years, beyond initial validity, by the competent authority. However, proposals approved prior to 1.4.2002 shall be considered on case to case basis by the BOA.

- 4) Para 6.7(a) provides that only projects having an investment of not less than Rs.50 lakhs and above in plant and machinery will be considered for establishment under EOU scheme. It has already been clarified to the Development Commissioners that the investment limit of Rs.50 lakhs also includes building. Further handicrafts sector has also been excluded from the minimum investment limit. It is proposed to reflect this position in the Policy. Para 6.7(a) may, therefore, be substituted as under:

6.7(a): “Only project having an investment of not less than Rs.50 lakhs and above in building, plant and machinery shall be considered for establishment under EOU scheme. (This shall, however, not apply to existing units and units in EPZ/EHTP/STP/Agriculture floriculture/aquaculture/animal husbandry/information technology, handicrafts, services and such other sectors as may be decided by the BOA). Applications for setting up of EOU/EPZ/EHTP/STP units, satisfying the conditions mentioned in paragraph 6.7 of the Handbook (Vol.I) may be approved by the concerned Development Commissioner within 15 days.”

- 5) Para 6.8)(f) is amended as under in order to clarify that sale of finished products which are freely importable are permitted by EOU/EPZ units on payment of full duties, if they have achieved NFEP/EP as per Appendix 1 of the Policy :

6.8(f): “EOU/EPZ/EHTP/STP units may be permitted to sell finished products which are freely importable under the Policy in the DTA against payment of full duties, provided they have achieved NFEP and EP as per Appendix-I of the Policy.

Such sales may also be permitted in exceptional cases without achievement of NFEP/EP.”

- 6) It has been decided to permit all deemed export benefits to EOU/EPZ/EHTP/STP units for supplies from DTA units to

EOU/EPZ/EHTP/STP provided a disclaimer is given by the DTA units. Accordingly para 6.12 (a) is amended as under:

6.12(a) “Supplies from the DTA to EOU/EPZ/EHTP/STP units will be regarded as “deemed exports” and the DTA supplier shall be eligible for the relevant entitlements under paragraph 8.3 of this Policy besides discharge of EP if any, on the supplier. Notwithstanding the above, EOU/EPZ/EHTP/STP units shall, on production of a suitable disclaimer from the DTA supplier, be eligible for obtaining the entitlements specified in paragraph 8.3 of the Policy. For the purpose of claiming entitlements at paragraph 8.3 (b), they shall get Brand Rates fixed by the DGFT wherever All Industry Rates of Drawback are not available. In addition, the EOU/EPZ/EHTP/STP units shall be entitled for the following:-”

Amendment of similar nature is made in para 7.9(a) for supplies from DTA to SEZ units. The amended version of Para 7.9(a)(I) is as under:

7.9 . (a) Supplies from DTA to SEZ units shall be eligible for the following:

(I) DTA supplier shall be entitled for:

- (i) Relevant entitlements under paragraph 8.3 of the Policy;
- (ii) Discharge of Export Performance, if any, on the supplier
- (iii) Benefit of DEPB in lieu of Drawback for supplies made to SEZ or unit in SEZ..

Notwithstanding the above, SEZ units shall, on production of a suitable disclaimer from the DTA supplier, be eligible for obtaining the entitlements specified in paragraph 8.3 of the Policy. For the purpose of claiming entitlements at paragraph 8.3 (b), they shall get Brand Rates fixed by the DGFT wherever All Industry Rates of Drawback are not available.

7) The last sentence of Para 6.16 (b) provides for destruction of goods with the permission of Customs authorities. In order to clarify that all kinds of obsolete goods could be destroyed, it is proposed to substitute 6.16 (b) as under on the lines of provisions contained in Customs Notification:-

6.16(b) “ Capital goods and spares that have become obsolete/surplus, may either be exported, transferred to another EOU/EPZ/EHTP/STP or disposed of in the DTA on payment of applicable duties. The benefit of depreciation, as applicable, will be available in case of disposal in DTA. No duty shall be payable if goods, including capital goods, goods manufactured, processed or packaged in the said unit and scrap/waste/remnants are destroyed with the permission of Customs authorities.”

On similar lines, Para 7.22 (c) pertaining to destruction of un-utilised/ obsolete goods by SEZ units is substituted on the lines of the change in para 6.16(b) as under:

7.22 (c) “No duty shall be payable if goods, including capital goods, goods manufactured, processed or packaged in the said unit and scrap/waste/remnants are destroyed with the permission of Customs authorities.”

This issues in public interest.

(L.Mansingh)  
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Ex officio Addl Secretary to the Government of India

(A.B.Menon)  
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