This column is compiled by Consultant [EXIM Policy] of EPCH. It contains recent Public Notices, Notifications and Circulars of DGFT, CBEC and Department of Revenue. If a handicraft exporter has question[s] to ask on Foreign Trade Policy, he/she may please write / e-mail to EPCH at policy@epch.com

Impex # 1

Schemes for duty free import of inputs

Salient features of 'Advance Authorization Scheme' and 'Duty Free Import Authorization Scheme'

There are many handicrafts exporters who have to import a number of input items (falling under the broad categories of raw materials, components, consumables, catalysts, fuel, oil etc.) to manufacture the export products. These are imported by them after payment of custom duty. But DGFT has schemes known as `Advance Authorization Scheme' (AAS) and 'Duty Free Import Authorization Scheme' (DFIA Scheme) under which the inputs as detailed above can be imported without payment of custom duty subject to certain conditions of exports.

The details of the two schemes i.e. Advance Authorization Scheme & DFIA Scheme are given in detail in Chapter 4 of Foreign Trade Policy of 2009-2014. The salient features of the two schemes are given below:

Salient Features of Advance Authorization Scheme

- Advance Authorization Scheme is a duty exemption scheme.
- An Advance Authorization is issued to allow duty free import of inputs, which are physically incorporated in export product (making normal allowance for wastage). In addition, fuel, oil, catalysts which are consumed/utilized to obtain export product, may also be allowed.
- Advance Authorizations are issued for inputs and export items given under SIONs (Standard Input Output Norms) given in H. B. of Procedure (Vol.-2) of 2009-14. These can also be issued on the basis of Adhoc norms or self declared norms as per Para 4.7 of the current HBP (Vol-1).
- Advance Authorization can be issued either to manufacturer exporter or merchant exporter tied to supporting manufacturer(s):
- Advance Authorizations are exempted from payment of basic customs duty, additional customs duty, education cess, anti dumping duty and safeguard duty, if any.
- Advance Authorization and /or material imported there under with actual user condition. It will not be transferable even after completion of export obligation.
- However, Authorization will have option to dispose off product manufactured out of duty free inputs once export obligation is completed.
- The validity of an advance authorization for import of inputs allowed in the authorization is 12 months.
- A period of 18 months from the date of issue of authorization is allowed to complete the export obligation as mentioned in the authorization.
- The relevant custom notification on the advance authorization scheme is 96/2009 dt. 11.09.2009.

  The application form applying for Advance Authorization is ANF-4A (where Standard Input Output Norms (SIONS) have been published. Where SIONS have not been published, the application has to be made in ANF-4B given in Handbook of Procedure (Vol.-1) of 2009-14 (Appendices and Aayat Niryat Forms).
- Before duty free import of inputs allowed in the authorization, the authorization holder is required to execute LUT/ Bond with Bank Guarantee (BG) with customs as detailed in Custom Circular No. 58/2004 dt. 21.10.2004 (as amended time to time).

- The LUT/Bond with bank guarantee is cancelled after completion of the export obligation and submission of required documents in this regard.
- After obtaining advance authorization the advance authorization holder is free to export the required export items manufactured from inputs purchased in DTA (indigenously) or already available with him in his stock. In such cases, the advance authorization holder is not required to give LUT/ Bond with Bank Guarantee as mentioned above.

Salient Features of Duty Free Import Authorization (DFIA) Scheme

- The salient features of the scheme are given below:

  DFIA is issued to allow duty free import of inputs, fuel, oil, energy sources, catalyst which are required for production of export product.
- Provisions of paragraph 4.1.3 of FTP shall be applicable in case of DFIA. However, these Authorizations shall be issued only for products for which Standard Input and Output Norms (SIONs) have been notified. The SIONs are given in the H. B. of Procedure (Vol.-2).
- In case of post export DFIA, a merchant exporter shall be required to mention only name(s) and address(s) of manufacturer(s) of the export products. Applicants are required to file application to concerned RA before effecting exports under DFIA.
- Pre-export Authorization shall be issued with actual user condition. and shall be exempted from payment of basic customs duty, additional / excise duty, education cess, antidumping duty and safeguard duty, if any.
- A minimum 20% value addition shall be required for issuance of such authorization.
- Once export obligation has been fulfilled, request for transferability of Authorization or inputs imported against it may be made before concerned RA. Once, transferability is endorsed, Authorization holder may transfer DFIA or duty free imports, except fuel and any other item(s) notified by DGFT. However, for fuel, import entitlement may be transferred only to companies which have been granted authorization to market fuel by Ministry of Petroleum and Natural Gas.
- The validity of a DFIA for import shall be 12 months from the date of issue of DFIA.
- The export obligation period for fulfillment of exports under DFIA is 18 months from the date of issue of DFIA.
- Once export obligation has been fulfilled, request for transferability of Authorization or inputs imported against it may be made before concerned RA. Once transferability is endorsed, Authorization holder may transfer DFIA or duty free inputs, except fuel and any other item(s) notified by DGFT. However, for fuel, import entitlement may be transferred only to companies which have been granted authorization to market fuel by Ministry of Petroleum and Natural Gas.
- After endorsement of transferability, imports / domestic procurement against authorization or transfer of imported inputs / domestically procured inputs shall be subject to payment of applicable additional customs duty / excise duty. While endorsing transferability, authorization would bear a note as to liability of such additional customs duty / excise duty. However, in case where CENVAT facility has not been availed, exemption from additional customs duty / excise duty would be available even after endorsement of transferability on DFIA.
- DFIA entitlement is of two types namely, post export and pre-export as detailed below:

Post Export:

In case of post export DFIA, a merchant exporter shall be required to mention only name (s) and address(s) of manufacturer(s) of the export product(s). Applicant is required to file application to concerned RA before effecting exports under DFIA.

Provisions of paragraph 4.1.3 shall be applicable in case of DFIA. However, these Authorizations shall be issued only for products for which Standard Input and Output Norms (SION) have been notified.

Pre - Export

Pre-export Authorization shall be issued with actual user condition and shall be exempted from payment of basic customs duty, additional customs duty / excise duty, education cess, anti-dumping duty and safeguard duty, if any

- The relevant custom notification on the DFIA Scheme is 98/2009 dt. 11.09.2009.
- The application form for applying for DFIA is given in ANF-4A of Handbook of Procedure (Vol-1) of 2009-14 (RE-2012) (Appendices and Aayat Niryat Forms).

Impex # 2 Questions & Answers

Question: We are handicraft exporters and remit commission to promote our sale. What is the limit which we can avail for refund of service tax on foreign agency commission?

Answer : The foreign agency commission on exports has been exempted by Service tax Notification 42/2012 dated June 29, 2012 The exemption is restricted to the service tax calculated on a value of 10 per cent of the free on board value of export goods. Therefore, if the FOB value of the order is USD 50,000, commission paid up to USD 5,000 would be exempted from service tax. If you pay commission of USD 6,000, you may have to absorb service tax paid over and above 10 per cent that is USD 6,000 -5,000 = USD 1,000. In such scenario, you will pay commission on USD 1,000 only.

Question: We have a value wise shortfall in our exports under Advance Authorization. Can we regularize it?

Answer : In case of any shortfall in value, authorization holder is required to deposit an amount equal to 1 per cent shortfall in FOB value in Indian Rupee. The exchange rate applicable for determination of shortfall in export obligation shall be the exchange rate applicable on the date of issue of authorization.

Question: How much forward cover can be booked by an EXIM trader to safeguard against exchange volatility?

Answer : Exporters are allowed to hedge currency risk on the basis of a declaration of an exposure up to an eligible limit. This is computed as the average of the previous three financial years' (April to March) actual export turnover or the previous year's actual export turnover, whichever is higher. Importers are allowed to hedge up to an eligible limit computed as 25 percent of the average of the previous three financial years' actual import turnover or the previous year's actual import turnover, whichever is higher. As per recent changes, contracts booked up to 75 per cent of the eligible limit mentioned above may be cancelled with the exporter or importer bearing or being entitled to the loss or gain as the case may be. Contracts booked in excess of 75 per cent of the eligible limit mentioned above shall be on a deliverable basis and cannot be cancelled, implying that in the event of cancellation, the exporter or importer shall have to bear the loss but will not be entitled to receive the gain.

Question: When will the online redemption for Advance Authorization be introduced? And what is the cutoff date of shipping bill covered under it?

Answer : The online redemption for Advance Authorization and Duty Free Import Authorization (DFIA) will be introduced from June 1, 2014. The online module will cover all shipping bills filed on or after April 1, 2009 from an EDI ports. The shipment prior to April 1, 2009 from an EDI Port and all shipment (without cutoff date) from a non EDI port will continue to be on manual mode for discharge of exports obligation in respect of Advance Authorization and DFIA.

On the above subject DGFT has issued a Public Notice No. 55 dt 14-03-2014. Extracts from this Public Notice were published in the 'CRAFTCIL' issue of March 2014 (Page 15)

Question: Our buyer has not taken the goods. Can I transfer the goods to the new buyer, at a discount of 15 per cent? Does it require RBI approval?

Answer : Approval of the Reserve Bank of India is not required if, after goods have been shipped, they are to be transferred to a new buyer in the event of default by the original buyer, provided the reduction in value, involved does not exceed 25 per cent of the invoice value and the realization of export proceeds is not delayed beyond the period of 12 months from the date of export.