

*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

## Third party exports in EPCG Scheme

DGFT issues Policy Circular containing clarification on applicability of amendment dt. 05.12.2017 about third party exports in EPCG Scheme.

'Third party exports' is a good provision in EPCG Scheme to facilitate exports. But the Govt. has to ensure that the exports under this provision are not counted twice--once by the first party (EPCG Authorisation holder) and secondly by the third party.

The third party provision is given in para 5.10 (c) of H.B. of Procedure (Vol. 1) of 2015-20. The last para of this provision reading as "*proceeds realized through normal banking channel from third party exporter's account to the authorisation holder's account on account of such exports only shall be counted towards fulfillment of export obligation*" was added in the 'Mid-term Review' of the FTP of 2015-20 on 5.12.2017.

Now DGFT has issued a Policy Circular No. 22/2015-20 dt. 29.03.2019 containing clarification as detailed below:

- It is clarified that the amendment to the para 5.10(c) of HBP 2015-20 shall be applicable to third party exports made on or after 05.12.2017. Third party exports which have been made prior to 05.12.2017 will be governed by the provisions of the relevant policy/procedure.
- Accordingly, in the case of third party exports, an authorisation holder can count till 04.12.2017 the full realised value of the shipping bill towards fulfilment of export obligation subject to counting of exports only once towards the EPCG obligation and maintenance of Average Export Obligation.
- All the shipments made 05.12.2017 onwards will be counted towards Export Obligation only for the actual payment realised through the normal banking channel from the third party exporter's account to the authorisation holder's account.

Copy of DGFT Policy Circular No.22/2015-20 dt. 29 March, 2019 referred to above is given below:

Copy

DGFT Policy Circular No.22/2015-20 dt. 29 March, 2019

**Subject: EPCG Scheme - Applicability of amendment to Para 5.10(c) of Hand Book of Procedures 2015-20 (Mid-Term Review).**

This Directorate has received references from the trade and RAs seeking clarification regarding the applicability of para 5.10(c) of HBP 2015-20 on third party exports. The matter has been examined in consultation with the Department of Revenue.

Para 5.10 (c) of HBP (2015-20) (updated as on 5.12.2017) states that:-

*"In case the Authorization Holder wants to export through a third party, export documents viz., shipping bills / Bill of exports etc. shall indicate name of both authorization holder and supporting manufacturer, if any, along with EPCG authorization number. BRC, GR declaration, export order and invoice should be in the name of third party exporter. The goods exported through third party should be manufactured by the EPCG Authorisation Holder or the supporting manufacturer where the capital goods imported under the authorisation have been installed. **Proceeds realised through normal banking channel from third party exporter's account to the authorisation holder's account on account of such exports only shall be counted towards fulfilment of export obligation.**"*

(Text in bold is an amendment incorporated in the mid-term review)

3. It is clarified that the amendment to the para 5.10(c) of HBP 2015-20 shall be applicable to third party exports made on or after 05.12.2017. Third party exports which have been made prior to 05.12.2017 will be governed by the provisions of the relevant policy/procedure.

4. Accordingly, in the case of third party exports, an authorisation holder can count till 04.12.2017 the full realised value of the shipping bill towards fulfilment of export obligation subject to counting of exports only once towards the EPCG obligation and maintenance of Average Export Obligation.

5. All the shipments made 05.12.2017 onwards will be counted towards Export Obligation only for the actual payment realised through the normal banking channel from the third party exporter's account to the authorisation holder's account.

## Impex # 2

## Module for online filing of complaints upgraded

DGFT issues Trade Notice upgrading the module for Online Filing and Tracking Quality Complaints / Trade Disputes relating to International Trade - both for Indian and foreign entities

Quality complaints and trade disputes are not uncommon in international trade. Since their settlement is of importance, DGFT laid down a procedure for the same vide Trade Notice No. 47/2015-20 dt. 11.02.2019 but it covered complaints only by foreign entities against Indian entities.

Now DGFT has issued a Trade Notice No. 08/2015-20 dt. 26.04.2019 upgrading the existing module. The upgradation will enable the Indian entities to file/track complaints foreign entities also. Copy of Trade Notice dt. 20.04.2019 reproduced below:

Copy

DGFT Trade Notice No. 08/2015-20 dt. 26.04.2019

**Subject: Upgraded Module for Online Filing & Tracking Quality Complaints/Trade Disputes relating to International Trade - both for Indian and foreign entities.**

For filing and tracking of Quality Complaints/ Trade Disputes an online module was implemented with effect from 11/02/2019. The procedure for filing and tracking such complaints was notified vide Trade Notice No.47/2015-20 dated 11.02.2019. However this module covered filing and tracking of complaints only by the foreign entities against Indian entities.

2. The said online module has been upgraded and now the Indian entities can also file/track complaints against foreign entities. The revised protocol is enumerated as below:

### **FOR THE INDIAN/FOREIGN COMPLAINANTS**

- (i) Go to the DGFT website [www.dgft.gov.in](http://www.dgft.gov.in)>Services>File Quality Complaints/Trade Dispute>fill Online Application Form.
- (ii) Upload documents related to the quality complaint/trade dispute, wherever required (maximum 5MB size documents in pdf format).
- (iii) Select the jurisdictional Regional Authority of DGFT/SEZ (this jurisdiction should be ascertained with respect to the address of the Indian entity) as per Appendix 1 of Handbook of Procedures (refer [http://dgft.gov.in/sites/default/files/1A\\_0.pdf](http://dgft.gov.in/sites/default/files/1A_0.pdf)).
- (iv) Select jurisdictional Indian Mission (this jurisdiction should be ascertained with respect to the address of foreign entity).
- (v) On submission, a Unique Reference Number (URN) starting with 'Q' will be generated and sent to the email id of the complainant. Please make sure that the email id is functional as all future correspondence in this regard will be made on this id only.
- (vi) The complainant, at a future date, can also provide additional material/correspondence to the Regional Authority/SEZ and Indian Mission. While making any future correspondence, the URN must be quoted invariably in the subject header of the email. (vii) A link 'View Status' is also available for the complainant to check current position of the complaint at "<http://dgftebrc.nic.in.8090/TradeDispute>"

## FOR THE CONCERNED REGIONAL AUTHORITY OF DGFT/SEZ AND INDIAN MISSION

(viii) On receipt of the complaint/dispute, the concerned Regional Authority/SEZ and Indian Mission, after logging into the Online Module, on a regular basis, will take necessary steps for its resolution.

(ix) In case the Online Application Form has been submitted incorrectly to the wrong jurisdiction by the complainant, the application should be reassigned to the concerned authority by the RA/SEZ/Mission. Online Application(s) submitted to DGFT Headquarters will also be 'Reassigned' to the concerned RA/SEZ. For information of the Complainant, details regarding reassignment to another authority has also been provided in the 'Update Status' link.

(x) The concerned RA/SEZ/Mission will regularly update position of the cases on the link 'Update Status' so that the Complainant, Foreign Trade Division of Department of Commerce, Economic Diplomacy Division of Ministry of External Affairs and the DGFT HQ can track the progress made on the complaints/disputes filed.

### Impex # 3

## TRA (Telegraphic Release Advice) for Scrips curtailed

DGFT issues Public Notice withdrawing TRA facility for scrips issued from all ports (except SEZ and non-EDI ports) issued on or after 10.04.2019.

On the subject cited above, DGFT has issued a Public Notice No. 84/2015-20 dt. 03.04.2019 consequent to the introduction of a procedure thereby doing away with the physical copy of MEIS/SEIS scrips issued with EDI ports.

Copy of DGFT has issued a Public Notice dt. 03.04.2019 referred to above is reproduce below:

Copy

DGFT Public Notice No. 84/2015-20 dt. 03.04.2019

**Subject: Amendments in the Handbook of Procedure consequent to the introduction of a procedure thereby doing away with the physical copy of MEIS/SEIS scrips issued with EDI ports**

In exercise of powers conferred under paragraph 1.03 of the Foreign Trade Policy (2015-2020), the Director General of Foreign Trade hereby adds the following provisions in the para 3.08 in the Handbook of Procedures, 2015-20, as amended from time to time.

"3.08

(c) However, for all MEIS/SEIS scrips issued on or after 10.04.2019 (except for MEIS/SEIS issued with port of registration as one of the Non EDI or SEZ ports), Telegraphic Release Advice (TRA) facility from EDI ports to non EDI and SEZ ports would not be available."

**Effect of this Public Notice:** IRA facility for scrips issued from all ports (except SEZ and non EDI ports) has been withdrawn for MEIS/SEIS scrips issued on or after 10.04.2019.

### Impex # 4

## Questions & Answers

**Question :** What is error code SB005 and what should be done to rectify it?

**Answer :** This error occurs due to mismatch of invoice number as declared in the invoice table of the shipping bill and that declared in the GSTR 1 for the same supply. This can happen due to: (i) Typographical mistake while entering data in GSTR 1 or Shipping Bill (SB) or (ii) The exporter uses two - sets of invoices, one invoice for GST and another invoice for exports resulting in mismatch of invoice numbers. The invoice number shall be matched - with GSTN to validate exports and IGST payment. There should not be - any difference between commercial invoice and GST invoice after implementation of GST since as per the GST law, IGST is to be paid on the actual transaction value of the supply between the exporter and the consignee, which should be

the same as the one declared in the commercial invoice. If SB005 is due to a data entry mistake in GSTR 1, then it can be amended in Form 9A. But any mistake in the SB cannot be amended once EGM is filed. Also, if the exporter has used a separate invoice in the SB, then he cannot include that in his GSTR 1 in lieu of his GST invoice.

**Question : What are the reasons for data not being transmitted from GSTN to Customs system?**

Answer : A number of records have not been transmitted by GSTN to the Customs system which could be on account of various errors that have occurred in the validation carried out by the GSTN. It is understood that the cases where such validations fail are on account of (i) Both GSTR 1 /Table 6A and GSTR 3B \_ have not been filed for that supply or there are missing invoices in GSTR 1 for that supply, (ii) Invoices provided in Table 6A of GSTR 1 /1A are incomplete, e.g., details of shipping bill and port number/code are not mentioned, (iii) IGST paid under Table 3.1 (b) of GSTR 3B being less than total IGST claimed in Table 6A of GSTR 1/1A of the same period. The claim cannot be more than that of the amount of IGST paid.

**Question : We procure materials from a GST registered trader who does the finishing for the company after purchasing the material from another GST registered unit. Is the company required to first pay GST and then claim its refund?**

Answer : If it is not a case of job work, then the company may pay GST to the supplier and take its refund after export.

**Question : We want to import goods and keep them in a Customs warehouse. Are we required to pay GST when we send the goods to the warehouse or when we clear them from the Warehouse?**

Answer : In case of supply of the warehoused imported goods, the point of levy would be the point at which the duty is collected under section 12 of the Customs Act which is at the time of clearance of such goods under section 68 of the Customs Act. IGST shall be levied and collected at the time of final clearance of the warehoused goods 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.

**Question : We are manufacturers and exporters of SIM goods in Kolkata. We would like to know whether the Refund of ITC on purchase of Capital Goods (used solely for business purpose) for exports can be claimed as ITC refund.**

Answer : `The Input Tax Credit (ITC) refund formula for exports does not cover ITC on capital goods. Therefore, refund of ITC on capital goods is not allowed when you export under LUT and apply for refund based on the refund formula of ITC. However, you can utilise the ITC paid on capital goods while paying IGST on exports and get the refund of IGST.

**Question : Can we use domestic containers for Exim cargo or only imported ones?**

Answer : Locally manufactured or domesticated ISO containers can be used for transportation of EXIM cargo. However, the shipping lines should intimate to the Customs the number and identification particulars of the locally manufactured/domesticated containers to be moved outside the country or to be re-entered into the country. The entry of the container no. in the shipping bill, for which 'allowed for shipment' has been granted, is considered as permission of export for the containers for purposes of Section 51. In case of export of empty containers, entry thereof in Export General Mani-Test would be treated as permission of export for the containers under Section 51.

# News from 'Print Media'

Economic Times 01.04.2019

## Commerce Dept Plans to Defer Raising Duty on 29 US Goods

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New Delhi: The department of commerce is likely to propose removing the deadline to impose higher duties on 29 goods imported from the US by another month.

India had set the sunset deadline of May 1 after extending multiple times despite announcing it in June last year in the hope of resolving the trade issues with the US (including the Generalized System of Preferences (GSP), agriculture and dairy so, medical devices and bio-tech).

"We will propose an extension of the deadline," said an official in the house of the development.

These levies had been proposed in response to the US raising duties on steel and aluminium imports from India and other countries last year. The department had contemplated extending the deadline on a weekly basis but the suggestion did not find favour with the finance ministry, said another official aware of the process. It is assumed that the task place on Thursday.

New Delhi had weighed the option of allowing the tariff to kick in from April 1 after the US announced the withdrawal of special duty benefits available to \$4 billion of Indian exports on March 5.

By statute, those changes may not take effect until at least 60 days after the notification to the US Congress and the government of India. GSP removal will be examined by a Presidential Proclamation.

As per the first official, India may consider imposing the tariffs earlier if the US withdraws the GSP benefits earlier.

The two sides have had around eight rounds of talks to resolve their bilateral trade issues after talks failed in March.

The Indian Chamber of Commerce on Thursday urged the US government to take a long-term view on US-India business relationship, especially when

the global economy is likely to get into recession during 2019 and this ongoing recession in India.

"ECB will be a good idea to work in tandem these days with the new government during January 15," the chamber said in a statement.

**WITHDRAWAL OF GSP:** A scheme on the lines of Rebate of State Levies is on the cards. It would refund unrebated taxes that are included in the price of goods through drawback route and incentivise traders to ensure shipments do not drop

## Tax Refund in the Works for Exports to US

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New Delhi: The government is considering a scheme to refund taxes imposed on India's exports to the US that will suffer loss of competitiveness since the concessional status enjoyed under the Generalized System of Preferences (GSP) are withdrawn.

A Rebate of State Levies (ROSL) kind of scheme, which would refund unrebated taxes that are included in the price of goods, would incentivise exporters and ensure India's shipments do not drop. The unrebated taxes would be refunded through the drawback route.

"Leather, textiles, some types of organic chemicals, and nuclear reactors and boilers are some sectors that are likely to face disadvantages. The government may consider

### Trade Winds

A Rebate of State Levies kind of scheme likely

It will refund unrebated taxes included in price of goods

They will be refunded through drawback route

Scheme in compliance with international trade norms

### Leather, textiles, some organic chemicals and nuclear reactors & boilers may be covered under a scheme

With withdrawal of GSP India will have to compete on MFN terms

### India's merchandise exports for 2018 were \$324.7 bn, of which 28% as it went to the US, says FIEO study

Not only \$6.35 bn of exports to the US benefited from GSP scheme

In a tariff gap between preferential and actual duties. The preferential tariffs under the GSP on Indian exports range between 1% and 5%.

"Looking at the tariff advantage, some sectors may not be able to absorb it. So, some handholding is required," said Ajay Sethi, director general, FIEO.

As per the study, India's global merchandise exports for 2018 were \$324.7 billion, of which \$92 billion went to the US. However, only \$2.35 billion of exports from India to the US benefited from the GSP scheme. Such exports were covered under 300 US tariff lines.

In March, the US had announced withdrawal of special duty benefits available to India on its exports. The GSP benefits will end in July from the time onwards.

ROSL for these sectors," an official in the house of the development said. While most Indian exports are incentivised through the Merchandise Exports from India Scheme, the programme has been disrupted by the US for violating the World Trade Organization (WTO) rules.

ROSL is compliant with international trade norms and found favour in mid-term review of the Foreign Trade Policy. The scheme should to

be taken account the needs of the energy intensive sectors and states with poor infrastructure, the government had noted in the review. The industry has identified basic and processed food, imitation jewellery, leather articles (other than footwear), pharmaceuticals, chemicals and plastics as sectors that would get hit the most with the preferential tariffs in the post-GSP era.

"In the event of withdrawal of the GSP, India will have to compete on most favoured nation (MFN) terms. About 60% of the US imports take place on MFN duty," Federation of Indian Export Organisations (FIEO) said in a study.

The MFN rates on these exports are between 4% and 6% but on certain lines such as sugar beet and some kinds of silver jewellery, the duty is as high as 15%, leaving

Business Standard 25.04.2019

Business Standard

Business Standard 25.04.2019

## Non-filers of GST returns won't be able to generate e-way bills

Non-filers of GST returns for two straight months will be barred from generating e-way bills for transporting goods effective June 21, the finance ministry said.

Businesses under GST composition scheme, however, will be barred from generating e-way bill if they fail to file tax returns for two consecutive filing periods, which is six months.

Meanwhile, the finance ministry has introduced changes in the e-way bill system, including auto calculation of distance based on PIN codes for generation of e-way bill and blocking generation of multiple bills on one invoice, as it seeks to crack down on GST evaders.

The electronic way or e-way bill was rolled out on April 1, 2018.

PTI

## Council gives firms more flexibility on GST payments

ADISHREE WIRESERVICE  
New Delhi, April

In yet another simplification, the Goods and Services Tax (GST) Council has added flexibility into the way a company can utilise the available input tax credit. Any company would now be eligible to use credit available against paid integrated GST (IGST) to set off tax liabilities of state GST (SGST) and central GST (CGST) in any proportion and in any order, the GST Council said in a circular sent to field formations on Tuesday.

Previously, the order of using the IGST credit was kept flexible — it was the company's choice to set off CGST or SGST first — in a notification dated March 29. However, it was not clear whether a company would be able to use IGST credit to set off SGST liability and CGST liability partially at the same time. It was construed that if a company chooses to set off SGST liability first, it would have to exhaust the entire SGST liability before using the IGST credit to set off CGST liability.

But in a circular issued on April 23, the GST Council clarified that the IGST credit can be used in a flexible manner. The mandatory requirement to set off IGST liability remains as it is.

Industry and observers have welcomed the move. Abhishek Jain, tax partner at EY India, said, "This was a much-needed clarification, and it brings to rest varied interpretations apprehended by industry experts on the utilisation of IGST credit."

Consider this: If a company has output tax liability of ₹1,000, ₹500, and ₹500 towards IGST, SGST, and CGST, respectively. Let us assume a case where IGST credit of ₹1,500 is available in the electronic credit ledger for the company at the time of tax payment. According to the GST law, it has to use the IGST credit to pay off the IGST liability first, before using it to discharge SGST or CGST liabilities. This will erase the IGST liability, and reduce the available IGST credit to ₹500 (₹1,500 minus ₹1,000).

The company can now use this credit (₹500) to pay off SGST liability completely, or the CGST liability completely, or both CGST and SGST in any proportion it deems proper. It can use half of the available IGST (₹250) credit to set off SGST liability and the remaining half (₹250) to set off CGST liability, or it can use ₹100 to set off SGST liability, and ₹400 to set off CGST liability, or any other combination.