

This column is compiled by Consultant [EXIM Policy] of EPCH. It contains recent Public Notices, Notifications and Circulars of DGFT, CBIC 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

New Foreign Trade Policy (FTP) announced

DGFT issues new Foreign Trade Policy 2023

DGFT vide its Notification No.1/2023 dt 31.03.2023 has issued a new FTP 23. It takes the place of FTP of 2015-20 valid upto 31.03.2023 on account of extensions from time to time.

Unlike the previous FTPs of the past which were valid for five years, the new FTP of 2023 has no time limit i.e. it is valid for indefinite period.

The new FTP has no major new scheme or measure. The emphasis is on:

- From incentives to Tax Remission
- Greater Trade facilitation through technology, automation, and continuous process re-engineering
- Export promotion through collaboration: Exporters, States, Districts
- Focus on Emerging Areas E-Commerce, Exports, Developing Districts as Export Hubs, Streamlining SCOMET policy.

Key FTP Highlights are given at link: <https://www.dgft.gov.in/CP/>

From the highlight it will be seen that at serial number 2.4 that Moradabad and Varanasi have been added to the list of 'Town of Excellence' for Handicrafts.

Copy of DGFT Notification No.1/2023 dt 31.03.2023 referred to above is given below:

(Copy) Notification No. 1/2023-DGFT, Dated: 31st March, 2023

In exercise of powers conferred by Section 5 of the Foreign Trade (Development & Regulation) Act, 1992 (No.22 of 1992), as amended from time to time, the Central Government hereby notifies the Foreign Trade Policy, 2023. This Foreign Trade Policy shall come into force with effect from 1st April, 2023.

Effect of this Notification: Foreign Trade Policy, 2023, is hereby notified.

Also given below is the copy of DGFT Public Notice No. 1/2023 dt 31.03.2023 containing new 'Handbook of Procedure', 2023.

(Copy) Public Notice No. 1/2023-DGFT, Dated: 1st April, 2023

In exercise of powers conferred under paragraph 1.03 and 2.04 of the Foreign Trade Policy, 2023, the Director General of Foreign Trade hereby notifies the Handbook of Procedures, 2023. This shall come into force with effect from 1st April, 2023.

Effect of this Public Notice: The Handbook of Procedures, 2023 is hereby notified.

DGFT announces Amnesty Scheme for one time settlement of default in export obligations by Advance Authorization and EPCG authorization holders.

DGFT issues Public Notice containing an Amnesty Scheme for one time settlement of default in export obligation by Advance and EPCG Authorization holders.

Many exporters are unable to fulfil the export obligations on their Advance and EPCG Authorisations in time on account of difficulties beyond their control. Many obtain their extensions to fulfil the E.O. but still the number of authorization holders who fail to fulfil the E.O. even after extensions is quite high. To take care of the situation as above DGFT has issued a Public Notice No. 2/2023 dt 31.03.2023 containing an Amnesty Scheme as mentioned above. Under the scheme:

- The Authorisations issued under Advance Authorisation Scheme (all variants) and EPCG Scheme (all variants) issued under Foreign Trade Policy, 2009-14 till 31.03.2015 are covered under the Scheme.
- For Authorizations issued under Advance Authorisation Scheme (all variants) and EPCG Scheme (all variants) issued under Foreign Trade Policy, 2004-2009 and before, the coverage is limited to those authorizations whose Export Obligation Period (original or extended) was valid beyond 12.08.2013.
- All pending cases of the default in meeting Export Obligation (EO) of authorizations mentioned in para (1) above can be regularised by the authorisation holder on payment of all customs duties that were exempted in proportion to unfulfilled Export Obligation and interest at the rate of 100% of such duties exempted. However, no interest is payable on the portion of Additional Customs Duty and Special Additional Customs Duty.
- All those authorization holders who are interested to avail the Scheme shall register themselves in website: <https://www.dgft.gov.in> in a separate application form provided for this purpose by filling all relevant details.

Since an amnesty scheme is issued once in a while, the exporters concerned should avail the opportunity and get rid of the problem as evading a problem is not a solution of the problem.

Copy of DGFT Public Notice No. 2/2023 dt 31.03.2023 referred to above is reproduced below:

(Copy) Public Notice No. 2/2023-DGFT, Dated 1st April, 2023

Subject: Amnesty scheme for one time settlement of default in export obligation by Advance and EPCG authorization holders - reg.

In exercise of powers conferred under Paragraph 1.03 of the Foreign Trade Policy (FTP) 2023, as amended from time to time, the Director General of Foreign Trade hereby makes the following amendments in procedure to close cases of default in Export Obligation under (a) Advance Authorisation Scheme and (b) EPCG Scheme.

I) Coverage:

- The Authorisations issued under Advance Authorisation Scheme (all variants) and EPCG Scheme (all variants) issued under Foreign Trade Policy, 2009-14 till 31.03.2015 are covered under the Scheme.
- For Authorizations issued under Advance Authorisation Scheme (all variants) and EPCG Scheme (all variants) issued under Foreign Trade Policy, 2004-2009 and before, the coverage is limited to those authorizations whose Export Obligation Period (original or extended) was valid beyond 12.08.2013.

II) The scheme

- This scheme is called "Amnesty scheme for one time settlement of default in export obligation by Advance and EPCG authorization holders"

- ii. All pending cases of the default in meeting Export Obligation (EO) of authorizations mentioned in para (i) above can be regularised by the authorisation holder on payment of all customs duties that were exempted in proportion to unfulfilled Export Obligation and interest at the rate of 100% of such duties exempted. However, no interest is payable on the portion of Additional Customs Duty and Special Additional Customs Duty.
- iii. All those authorization holders who are interested to avail the Scheme shall register themselves in website: <https://www.dgft.gov.in> in a separate application form provided for this purpose by filling all relevant details.
- iv. Thereafter, if entire authorization is under default, the applicants can pay Customs duty plus interest with the Jurisdictional Customs authorities concerned and submit proof thereof to the Regional Authority of DGFT concerned.
- v. If there is partial default, the Regional Authority of DGFT on the basis of specific request of the applicant and on the basis of application filed for Export Obligation Discharge Certificate along with the necessary supporting documents, shall intimate to the applicant the details of default on which Customs duty and interest is payable.
- vi. The applicant thereafter can pay Customs duty plus interest with the Jurisdictional Customs authorities concerned and submit proof thereof to the regional authority of DGFT concerned.
- vii. Any authorisation holder choosing to avail this benefit must complete the process of registration as mentioned in para (iii) above on or before 30.06.2023 and payment of Customs duty plus interest with the Jurisdictional Customs Authorities concerned shall be completed by 30.09.2023.
- viii. Based on the evidence of such payment and other relevant documents as prescribed under the Handbook of Procedures, concerned RA may examine the request and issue a letter granting Export Obligation Discharge Certificate (EODC).
- ix. Even cases which have already been adjudicated (or pending adjudication), either originally or in appeal, can also be regularized under this Public Notice. The procedure for regularization of such cases would be as under :-
 - a. In respect of cases which have already been adjudicated (or pending adjudication) and where appeal has not been filed, firms will produce a copy of this closure letter from the concerned RA, to the Adjudicating Authority.
 - b. In case an appeal has been filed, then this closure letter will have to be submitted to the Appellate Authority. On submission of such closure letter Adjudicating Authority/Appellate Authority will decide on closure of such case/appeal and will inform the same to the Appellant and to the concerned RA.
- x. Cases under investigation or cases adjudicated for/involving fraud, misdeclaration or unauthorised diversion of material and/or capital goods will be excluded from the coverage.
- xi. Neither CENVAT Credit nor Refund, under any provision of law, of any amount shall be allowed on duties paid under this scheme. The applicant shall also give an undertaking that they will not file any application for CENVAT Credit or refund of any duty paid under this scheme before any authority and/or before any court of law.

- xii. If duty along with applicable interest has already been deposited in full, the case would not be eligible for coverage.
- xiii. Necessary procedures including a system of filing required reports by the respective RAs would be indicated separately.

[Example 1: Where entire EO could not be fulfilled: - If the default in EO is 100%, this would mean the complete duty saved amount has to be refunded. The interest on this duty saved amount has to be calculated from the date of import till the date of payment. In the total CIF value of unutilised exempted material is say Rs. 100/-, all the customs duties (including Additional Customs Duty and Special Additional Customs Duty) exempted is say Rs.50/-. The Customs duties exempted (except Additional Customs Duty and Special Additional Customs Duty) portion is say Rs.32/- then interest payable is maximum of Rs. 32/- (100% of Rs.32/-). Therefore for regularising this case the maximum amount payable by the authorisation holder would be Rs. 50+32/- =Rs.82/-.

Example 2: Where there is a shortfall in EO fulfillment:- In the total CIF value of authorization is say Rs. 500/-, the default in EO were 40%, then the corresponding CIF value of duty saved amount becomes Rs. 200 (40% of Rs. 500). All the customs duties exempted (including Additional Customs Duty and Special Additional Customs Duty) is say Rs.100/-. The Customs duties exempted (except Additional Customs Duty and Special Additional Customs Duty) portion is say Rs.64/- then maximum interest payable is Rs.64/- (100% of Rs.64/-). Therefore for regularising this case the maximum amount payable by the authorisation holder would be Rs. 100+64/- =Rs.164/-]

Effect of this Public Notice: One time facility is being provided for grant of EODC/ regularisation of cases of EO default of Advance Authorisation and EPCG authorizations under "Amnesty scheme for one time settlement of default in export obligation by Advance and EPCG authorization holders"

Impex # 3

Issuance of EODC for AA and EPCG process from DGFT portal

DGFT issues Trade Notice containing detailed procedure for issue of EODC for AA and EPCG process from DGFT portal.

DGFT has in place portal for issuance of EODC for AA and EPCG authorisation electronically. Now, no EODCs are issued manually.

DGFT has now issued a Trade Notice No.01/2023-24 dt 06.04.2023 about issuance of EODC for AA and EPC authorization (copy reproduced below). It contains a detailed procedure on the subject.

(Copy) Trade Notice 01/2023-24, Dated: 6th April 2023

Subject: Issuance of EODC for AA and EPCG process from DGFT portal -reg.

Reference is drawn to earlier Trade Notice no. 24/2022-23 dated 12th January 2023 regarding the online functionality to AA / EPCG authorisation holders to update closure / redemption status on the DGFT Website (<https://dgft.gov.in>) of manually issued EODC in case incorrectly reflected on the DGFT portal.

2. In continuation to the said instructions, it is informed that -
 - i. Online application for redemption/closure of licence may be submitted by navigating to DGFT website -> Services -> AA / EPCG -> Closure of Advance Authorisation / Closure of EPCG.
 - ii. AA closure application may be submitted with or without data validationsa-

- a. With Validation Route- Given that the complete dataset such as shipping bills / Bills of Entry / eBRC / GST invoices / Bills of Exports / Tax Receipts etc. is available in online system.
 - b. Without Validation Route- Application may be submitted even with data (such as shipping bills / Bills of Entry/ eBRC, etc.) exceptions.
 - iii. EPCG closure applications may also be submitted online without validation.
3. For cases wherein physical files are submitted for redemption to the RA, the Authorisation holders may submit EODC status update applications to RA for processing. Following steps may please be taken note of-
- i. RA may suo-moto update the licence status by navigating to License Room, select relevant License number -> Click on "EODC Status Update" button and generate the EODC letter online.
 - ii. Authorisation Holder may submit EODC status update application by navigating to DGFT website -> Services -> AA / EPCG -> EODC Status update.
4. If certain documents require physical submission, the Authorization holder would still apply for redemption on DGFT portal (without validation). Regional Authorities will examine the case accordingly and correspondence with the applicant shall be undertaken online using the DGFT portal.
5. It may be noted that any such EODC issued online is electronically transmitted to Customs ICEGATE System in near real-time, to facilitate discharge of Customs bond and other related activities at the Customs port.
6. The above-mentioned online options cover online applications with validation as well as online application without validation involving physical submission. It is accordingly directed that no Export Obligation Discharge Certificates (EODC) are to be issued manually or through any legacy IT system (LEMIS System) with immediate effect.
7. All MIS reports are to be generated by the RA based on the data updated online

Impex # 4

Questions & Answers

Question: Whether I need to register at the port for the purpose of claiming and utilisation of RoDTEP benefits?

Answer : Registration on the ICEGATE online portal and creation of the e-credit ledger seems to be sufficient compliance to avail the benefit of this scheme. The registration at the port of export, as was required under the erstwhile MEIS scheme, is not required under this scheme. This is more so because the entire mechanism of issuance, processing, generation and utilization of the scrips is being carried out through a common portal in the ICEGATE.

Question: What is the validity of RoDTEP or RoSCTL scrips?

Answer : The validity of both categories of scrips has been extended from 1 year to 2 years by the Customs Notification No. 79/2022 dated 15th September, 2022 by amending the "Electronic Duty Credit Ledger Rules". The period of 2 years will be reckoned from the date of scrip generation/creation.

Question: We want to import capital goods to be send to our job worker. Can we claim ITC for the same and how long the job worker can retain such capital goods?

Answer : Principal (you) can send inputs or capital goods directly to the job worker without bringing them to his premises, still you can avail the credit of tax paid on such capital goods. However, inputs or capital goods sent to a job worker are required to be returned to you within 3 years from the date of sending such capital goods to the job worker. Further, the provision of return of goods is not applicable in case of moulds and dies, jigs and fixtures or tools supplied by the principal to the job worker. The capital goods shall be sent to the job worker under the cover of a challan issued by you. The challan shall be issued even for the capital goods sent directly to the job worker. The challan shall contain the details specified in rule 10 of the Invoice rules. The responsibility for keeping proper accounts for the inputs or capital goods shall lie with the principal (you).

Question: What are the fines or penalties if the capital goods are not received back from the place of business of the job worker within the prescribed time period?

Answer : If the capital goods are not received back by the principal, it would be deemed that such capital goods had been supplied by the principal to the job worker on the day when the said capital goods were sent out by the principal (or on the date of receipt by the job worker where the capital goods were sent directly to the place of business of job worker). Thus the principal would be liable to pay tax accordingly.

Question: Whether the goods of principal directly supplied from the job worker's premises to the buyer will be included in the aggregate turnover of the job worker?

Answer : No. It will be included in the aggregate turnover of the principal. However, the value of goods or services used by the job worker for carrying out the job work will be included in the value of services supplied by the job worker.

Question: Our shipping bill has been transmitted by GSTN to Customs and there is no error in the refund claim also. However, still the refund has not been received in the bank account. What should we do?

Answer : SB000 (Successfully Validated) is the response code which comes when all the decided parameters like GST1N, Shipping Bill (SB) number, invoice number etc. match between GSTN and Customs databases. This code implies that the SB is ready for inclusion in the IGST refund scroll. However, it might happen that even with SB000, the SB does not appear in the refund scroll. This could be due to: (i) The exports might have been made under Bond or LUT, hence not eligible for IGST refund. (ii) If a shipping bill covers multiple invoices, few of the invoices might have been successfully validated with code SB000 whereas other invoices might be containing other types of error/s. (iii) Where the IGST claimed amount is less than Rs. 1000/-. In all the above cases, the scroll amount shall automatically become zero and the SBs shall not be included in the refund scroll. (iv) This could happen if there is an alert/ suspension on the IEC in ICES or if the account of the IEC is not validated by PFMS.