

Circular No. 50/2018-Customs

F.No. DGEP/EOU/40/2017
Government of India
Ministry of Finance
Department of Revenue
Central Board of Indirect Taxes & Customs
(Directorate General of Export Promotion)

New Delhi, dated 6th December, 2018

To,

All Pr. Chief Commissioners/ Chief Commissioners of Customs/ Customs (Prev.)

All Pr. Chief Commissioners/ Chief Commissioners of Central Tax/ Central Excise

All Pr. Commissioners/ Commissioners of Customs/ Customs (Prev.)

All Pr. Commissioners/ Commissioners of Central Tax and Central Excise

Madam/Sir,

Sub: Clarification with respect to amendments to Customs and Central Excise notifications for EOUs - reg.

EOU/EHTP/STP/BTP schemes are governed by Chapter 6 of Foreign Trade Policy (FTP), duly supported by the relevant Customs and Central Excise notifications. These notifications have now been amended in order to align them with the present Foreign Trade Policy (FTP), 2015-2020, as amended, as well as to remove redundancies that had crept in over the time on account of changes/supersession of certain other notifications mentioned therein and legal developments such as the introduction of GST and exempting the EOUs from the application of the Customs warehousing provisions. These amendments have been carried out by Notifications No. 79/2018-Customs and No. 23/2018-Central Excise, both dated 05.12.2018. Further, the B-17 Bond (General Surety/Security) being submitted by the EOUs has been similarly updated vide Notification No. 1/2018-Central Excise (N.T.), dated 05.12.2018.

Notification No. 52/2003-Customs, dated 31.03.2003 amended by Notification No. 79/2018-Customs, dated 05.12.2018

2. The Notification No. 52/2003-Customs, dated 31.03.2003 provides for exemption from Basic Custom Duty, Additional Duties of Customs, IGST and Compensation Cess on various goods listed therein, when imported by the

EOUs for specified purposes. This notification has been amended to provide that:-

(a) imported goods could be temporarily cleared without payment of all Customs duties, IGST and Compensation Cess not paid at the time of their import. However, the applicability of GST on supply of such goods shall be independently governed by GST laws.

(b) when duty has to be paid on the imported goods such as when these are cleared from the EOU, the same would be the duty/tax for which exemption was availed at the time of their import. However, in the case of capital goods, depreciation would be allowed as provided in para 4 of the Notification No. 52/2003-Customs, dated 31.03.2003. Further, for leftover textile fabric or textile material, such payment of duty would be based on the transaction value as per existing provisions.

(c) removal/modification/updation of the redundant/old notifications/provisions of the FTP etc., as follows:-

- (i) providing that a job worker would need registration under GST Act/Rules to enable the EOUs to export of GST goods directly from its premises.
- (ii) replacing the reference to Notification No. 62/2004-Customs, dated 12.05.2004 with presently valid Notification No. 50/2017-Customs, dated 30.06.2017 for payment of duty by Gem & Jewellery EOUs on the gold or silver content in the scrap, dust or sweeping cleared to DTA or for payment of duty by nominated agencies in case of failure of export in specified time frame.
- (iii) removing the reference to old DGFT Policy Circular No. 77(RE) 2003-2004/9, dated 31.03.2009.
- (iv) prescribing that wastage norms for manufacture of jewellery of gold/silver/platinum would be directly governed by the provisions of the FTP and Handbook of Procedures.
- (v) replacing the references to old FTP, 2004-2009 by the new FTP, 2015-2020 and its Appendix.
- (vi) replacing the reference to outdated Notification No. 106/58-Customs, dated 29.03.1958 by the presently applicable Notification No. 36/2017-Customs, dated 30.06.2017.

- (vii) removing the references to Commissioner of Central Excise/ Central Excise officer as the Customs work relating to the EOUs is now handled by the jurisdictional Customs officers.

(d) For promoting indigenization and export of electronics, Ministry of Electronics & Information Technology (MeitY) had recommended that the period of three years allowed for re-import of goods manufactured and exported by EOUs for the purposes of repair and reconditioning may be extended to seven years for specified goods. This was justified on the ground that overseas customers were otherwise constrained to prematurely scrap the repairable goods which are more than three years old. Accordingly, Sr.No. 14 of the Annexure-I of the notification has been amended to list specific goods manufactured and exported by EOUs that can be re-imported within seven years. These goods are required to be re-exported within one year of the date of re-importation.

Notification No. 22/2003-Central Excise, dated 31.03.2003 amended by Notification No. 23/2018--Central Excise, dated 05.12.2018

3. The Notification No. 22/2003-Central Excise dated 31.03.2003 provides for exemption from various duties of Excise on the goods listed therein when procured indigenously by the EOUs for specified purposes. This notification has been amended to provide for:-

(a) deletion of reference to the Additional Duties of Excise (Goods of Special Importance) Act, 1957 (58 of 1957) and Additional Duties of Excise (Textile and Textile Articles) Act, 1978 (40 of 1978) these Acts are not in existence post-GST.

(b) modification of clauses (a) to (e) of the opening para of the said notification to allow procurement of excisable goods falling under the Fourth Schedule to the Central Excise Act, 1944 (1 of 1944). Also, Annexures I, II, IV and V of the said notification which listed various excisable goods that were allowed to be procured indigenously without payment of Excise duties have been removed as post GST, most of the goods now fall under GST.

(c) continuation of the facility extended to the EOUs engaged in processing or manufacture of articles of granite, processing of agricultural products and production or manufacture or packaging of goods in horticulture, agriculture and animal husbandry sector to temporarily remove specified goods procured prior to 30.06.2017 without payment of Excise duty to granite quarries and to the fields and farms.

(d) clearance of capital goods and goods other than packaging material unsuitable for repeated use which were procured without payment of Excise duty prior to 30.06.2017, on payment of Excise duty availed as exemption.

Further, allowing the depreciation on capital goods, as provided, and charging duty on leftover textile fabric or textile material on the transaction value as at present.

(e) changes on account of redundant references to old/superseded notifications/FTP etc., as follows:-

- (i) replacement of the reference to old Rule 20 of the Central Excise Rules, 2002 with the present Rule 16 of the Central Excise Rules, 2017.
- (ii) replacement of the reference to outdated Notification No. 106/58-Customs, dated 29.03.1958 with presently applicable Notification No. 36/2017-Customs, dated 30.06.2017.
- (iii) replacement of the references to old FTP, 2004-2009 with the new FTP, 2015-2020 and its Appendix.

Notification no. 23/2003-Central Excise, dated 31.03.2003 amended by Notification No. 23/2018--Central Excise, dated 05.12.2018

4. The Notification No. 23/2003-Central Excise, dated 31.03.2003 prescribes effective duties leviable on the DTA clearance of excisable goods by EOUs. The main amendments are as follows:-

- (a) removal of reference to non existing entries at Sr. Nos. 5, 5A, 6 and 7A of the Table which have been omitted by Notification No. 16/2017-Central Excise, dated 30.06.2017.
- (b) removal of the reference to Duty Free Replenishment Certificate (DFRC), which has been replaced by Duty Free Import Authorization (DFIA).
- (c) removal of the condition that the goods cleared to the DTA must be “similar” to those exported and also removal of the cap of 50% on DTA sale in line with the present FTP, 2015-2020.
- (d) replacing the references to the old FTP, 2004-2009 with the new FTP, 2015-2020.

Notification No. 24/2003-Central Excise, dated 31.03.2003 amended by Notification No. 23/2018--Central Excise, dated 05.12.2018

5. The Notification No. 24/2003-Central Excise dated 31.03.2003 provides for exemption from duties of Excise on the goods manufactured by a EOU provided these are not brought to any place in India. Post GST, the Additional Duties of Excise (Goods of Special Importance) Act, 1957 (58 of 1957) and the Additional Duties of Excise (Textile and Textile Articles) Act, 1978 (40 of 1978) are no more

in existence. Therefore, suitable amendment has been made to remove reference to these Acts.

Revised B-17 bond – by Notification No. 1/2018--Central Excise (N.T.), dated 05.12.2018

6. The EOUs have been furnishing a “Mother Bond” in form B-17 (General Surety/Security) for Customs duty free import, Excise duty free domestic procurement, provisional assessment, export without payment of duty, movement of goods for job work and return, temporary clearances, proper accountal of goods, etc. This bond was notified vide Notification No. 6/98–Central Excise (N.T.), dated 02.03.1998 under the erstwhile Central Excise Rules, 1944. A revised B-17 (General Surety/Security) bond updated with references to GSTIN, present FTP provisions and Notification No. 52/2003–Customs dated 31.03.2003 etc., has been notified under the present Rules 7, 9, 21 and 22 of the Central Excise Rules, 2017. This new bond will be applicable to the new EOUs. The existing EOUs shall continue with the earlier B-17 bond already executed by them so that there is no disruption in their working. Also, all relevant instructions applicable for the old B-17 bond will be mutatis mutandis applicable to the new B-17 bond.

7. While the above paras briefly explain the changes varied out in the aforementioned notifications, all officers concerned are requested to carefully peruse the amending notifications to better understand the new legal stipulations that apply to the EOUs.

8. Difficulties, if any, may be brought to the notice of the Board.

9. Hindi version will follow.

Yours faithfully,

Sd/-

(Saroj Kumar Behera)
Joint Director