

GENERAL EXEMPTION NO. 5

Exemption to materials imported against Advance Licence with Actual User Condition

[Notfn. No.30/97-Cus. dt.1.4.1997 as amended by Notfn. Nos. 94/97, 10/98, 51/99, 121/99, 52/00, 120/00, 30/01, 122/01, 113/02, 125/02, 84/03, 97/03, 63/04, 46/13, 26/17].

In exercise of the powers conferred by sub-section (1) of section 25 of the Customs Act, 1962 (52 of 1962) the Central Government, being satisfied that it is necessary in the public interest so to do, hereby exempts materials imported into India, against an **Advance Licence with Actual User Condition** in terms of para 7.4 of the Export & Import Policy 1997-2002 notified by the Government of India in the Ministry of Commerce *vide* Notification No. 1/1997-2002, dated the 31st March, 1997 (hereinafter referred to as the said licence), from the whole of the duty of customs leviable thereon which is specified in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) and from the **whole of the duty of Customs** leviable thereon which is specified in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) and from the **whole of the additional duty** leviable thereon under sub-sections (1), (3) and (5) of section 3 of the said Customs Tariff Act, subject to the following conditions, namely -

- (i) that the materials imported are covered by an Actual User Duty Exemption Entitlement Certificate (hereinafter referred to as the said certificate), issued by the Licensing Authority in the form specified in the schedule annexed to this notification, in respect of the value, quantity, description, quality and technical characteristics;
- (ii) that the importer at the time of clearance of the imported materials executes a bond with such surety or security and in such form and for such sum as may be specified by the ¹Assistant Commissioner of Customs or Deputy Commissioner of Customs binding himself to pay on demand an amount equal to the duty leviable, but for the exemption, on the imported materials in respect of which the conditions specified in this notification have not been complied with, together with interest at the rate of fifteen per cent per annum from the date of clearance of the said materials :
(*as per C120(1) of Finance Bill 2003 the rate of 15% is applicable w.e.f. 1.4.1997*).

Provided that the bond shall not be necessary in respect of imports made after the discharge of export obligation in full;

- (iii) that the said licence and the said certificate are produced before the proper officer of customs at the time of clearance for debit;
- (iv) ¹that the imports and exports are undertaken through the sea ports at Mumbai, Calcutta, Cochin,² (Magdalla,) Kakinada, Kandla, Mangalore, Marmagoa, Madras, Nhava Sheva, Paradeep, Pipavav, Sikka, Tuticorin; Visakhapatnam Dehej, Nagapattinam, Okha, Mundra, Jamnagar and Muldwarka or through any of the airports at Ahmedabad, Bangalore, Bhubaneswar, Mumbai, Calcutta, Coimbatore, Delhi, Hyderabad, Jaipur, Madras, Srinagar, Trivandrum, Varanasi, Nagpur and Cochin or through any of the Inland Container Depots at Agra, Bangalore, Coimbatore, Delhi, Faridabad, Gauhati, Guntur, Hyderabad, Jaipur, Jalandhar, Kanpur, Ludhiana, Moradabad, Nagpur, Pimpri (Pune), Pitampur (Indore), Surat, Tirupur, Varanasi, Nasik, Rudrapur (Nainital), Dighi (Pune), Vadodara, Daulatabad (Wanjarwadi and Maliwada), Waluj (Aurangabad), Anaparthi (Andhra Pradesh), Salem, Malanpur, Singnalur, Jodhpur, Kota, Udaipur, Ahmedabad, Bhiwadi, Madurai, Bhilwara, Pondichery, Garhi Harsaru, Bhatinda, Dappar (Dera Bassi), Chheharata (Amritsar), Karur, Miraj, Rewari, Bhusawal, Jamshedpur, Surajpur and Dadri or through the Land Customs Station at Ranaghat, Singhabad, Raxaul, Jogbani, Nautanva (Sonauli), Petrapole and Mahadipur.

Provided that the Commissioner of Customs may by Special Order and subject to such conditions as may be specified by him, permit import and export through any other Seaport, Airport, or Inland Container Depot or through the Land Customs Station;

- (v) that the export obligation is discharged within the period specified in the said certificate or within such extended period as may be granted by the Licensing Authority by exporting resultant products manufactured in India which are specified in Part 'E' of the said certificate (hereinafter referred to as resultant products) and in respect of which facility under rule 18 or rule 19 of the Central Excise *(No.2) Rules, 2001 has not been availed in respect of materials permitted under the said licence;
- (vi) that the importer produces evidence of discharge of export obligation to the satisfaction of the ³(Assistant Commissioner of Customs or Deputy Commissioner of Customs) within a period of 30 days of the expiry of period allowed for fulfilment of export obligation, or within such extended period as the said ⁴(Assistant Commissioner of Customs or Deputy Commissioner of Customs) may allow;
- (vii) exempt materials shall not be disposed of or utilised in any manner except for utilisation in discharge of export obligation or for replenishment of such materials and the materials so replenished shall not be sold or transferred to any other person;
- (viii) that in relation to an Advance Licence issued to a Merchant Exporter –
 - (a) the name and address of the supporting manufacturer is specified in the said licence and the said certificate and the bond required to be executed by the importer in terms of condition (ii) shall be executed jointly by the Merchant Exporter and the supporting manufacturer binding themselves jointly and severally to comply with the conditions specified in this notification; and
 - (b) exempt materials are utilised in the factory of such supporting manufacturer in terms of condition (vii).

Where the goods are found defective or unfit for use, the said goods may be re-exported back to the foreign supplier within 3 years from the date of payment of duty on the importation thereof.

Provided that at the time of re-export the goods are identified to the satisfaction of the Assistant Commissioner of Customs or Deputy Commissioner of Customs as the goods which were imported.

3. In a case of default in export obligation, when the duty on goods is paid to regularise the default, the amount of interest paid by the importer shall not exceed the amount of duty if such regularisation has been dealt in terms of Public Notice of the Government of India in the Ministry of Commerce No. 22 (RE-2013)/2009-2014 dated the 12th August, 2013.

Explanation in this Notification, -

- (i) "Licensing Authority" means the Director General of Foreign Trade appointed under section 6 of the Foreign Trade (Development and Regulation) Act, 1992 (22 of 1992) or an officer authorised by him to grant a licence under the said Act.
- (ii) "Materials" means -
 - (a) raw materials, components, intermediates, consumables, computer software and parts required for manufacture of resultant product specified in Part E of the said

certificate :

Provided that the benefit of this notification shall apply to import of Acetic, Anhydride, Ephedrine and Pseudoephedrine only against licences issued with the approval of Advance Licensing Committee in the office of the Director General of Foreign Trade;

- (b) mandatory spares within a value limit of¹ (10%) of the value of the licence which are required to be exported alongwith the licence which are required to be exported along with the resultant product; and
- (c) packaging materials required for packing of resultant product.

Table

Sl. No.	Chapter or heading or sub-heading or tariff item of the First Schedule	Description of goods
(1)	(2)	(3)
1.	2709 00 00	Petroleum Crude
2.	2710	Motor spirit commonly known as petrol
3.	2710	High speed diesel (HSD)
4.	2710 19 20	Aviation Turbine Fuel
5.	2711 11 00 2711 21 00	Liquefied natural gas and Natural Gas

**THE SCHEDULE
ACTUAL USER DUTY EXEMPTION ENTITLEMENT CERTIFICATE
PART - 1
(IMPORT)**

(This consists of.....pages)

Sl. No.(IMP)

Date of issue.....

Port of Registration.....

Issued to

.....(name and full address of
.....the licencee)

Materials imported against licence No.....dated.....issued by.....to the above licencee and covered by the list of materials specified in list (a) of Part 'C' of this certificate would be eligible for exemption from customs duties subject to the conditions specified in the notification of the Government of India, Ministry of Finance, Department of Revenue No.....Customs, dated the1997.

The importer shall discharge the export obligation in terms of the said notification withinmonths

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from the date of issue of licence.

A Bond with security/surety in terms of the said notification, shall be executed before clearance of the goods from the Customs.

Signature
Seal of licensing authority
Date

PART - A

Names and addresses of the factories where the resultant products for export are manufactured.

PART - B

List of Materials of Import

Names and addresses of the factories where the ancillaries to the resultant products for export are manufactured.

PART - C

List of materials of import

(a) Materials to be imported under this certificate

Sl. No.	Item of Import	Quality	Technical Characteristics
1	2	3	4
	Quantity	CIF value in Indian Rs. and in equivalent US\$	S. No. of the resultant products in Part E
	5	6	7

(b) Other imported materials to be used in export product

Sl. No.	Description	Quantity	Value
1	2	3	4

PART - D

PARTICULARS OF IMPORT OF MATERIALS

Sl.No.	No. of the materials in	Bill of Entry No. date and Customs	Description	Quantity and net
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Part -C		House of import	weight		
1	2	3	4	5	
CIF Value	<u>Duty leviable but for exemption</u>		Rate of	Amount	Signature of
	Heading No.		Duty	of duty	Customs Officer
	of the First Schedule				with Name,
	to the Customs Tariff				Designation,
	Act, 1975 and Heading				and Seal.
	no. in the Schedule to				
	the Central Excise				
	Tariff Act, 1985 for				
	levy of Additional				
	duty.				
6	7	8	9	10	

(Parts E and F figure in the Export Part of this DEEC)

PART - G

Duties paid on materials in respect of which the conditions of said notification are not complied with

Sl. No.	Sl.No. in Part D under which the import of the materials has been entered	Description, Quantity and value of materials on which duty paid.	Rate of Duty leviable (i) Basic (ii) Additional
1	2	3	4
Amount of (i) Duty (ii) Interest	Particulars of duty paying documents		Signature of the Customs Officer
5	6	7	

ACTUAL USER DUTY EXEMPTION ENTITLEMENT CERTIFICATE**PART-2
(EXPORT)**

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(This consists ofpages)

Sl.No..... (EXP)

Date of issue

Port of Registration

Issued to

.....

.....

(name and full address of the licensee)

Materials imported against Licence No. dated issued by to the above licensee and covered by the list of materials specified in list (a) of part 'C' of this certificate would be eligible for exemption from custom duties subject to the conditions specified in the notification of the Government of India, Ministry of Finance, Department of Revenue No. Customs, dated the1997.

The licensee shall discharge the export obligation in terms of the said Notification within months from the date of issue of licence.

A Bond with surety/ security, in terms of the said Notification, shall be executed before clearances of the goods from the customs.

Signature
Seal of licensing authority
Date

PART - A

Names and addresses of the factories where the resultant products for export are manufactured

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.....

PART - B

Names and addresses of the factories where the ancillaries to the Resultant products for export are manufactured.

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.....

(Part's C and D figure in the Imports Part of this DEEC)

**PART - E
RESULTANT PRODUCTS**

Sl. No.	Description	Quality	Technical Characteristics
1	2	3	4

Quantity	FOB Value in Rs./US\$	Sl No. of the materials in Part-C
5	6	7

PART - F
PARTICULARS OF EXPORTS

Sl. No.	S. No. of the resultant product in Part E	Name of the Customs House of Shipment	Shipping Bill No. & date	Name of the Vessel and outward entry of the vessel
1	2	3	4	5

Quantity	Net weight of the product	Description as per the Shipping Bill	FOB Value in Rs./US\$	Signature of Customs Officer with name, designation and Seal and remarks, if any
6	7	8	9	10

PART - H
STATEMENT OF IMPORTS AND EXPORTS MADE

Details of Imports made :

Sl. No.	S.No. of Part C	Description	Quantity imported	CIF Value in Rs./in equivalent US\$
1	2	3	4	5

Details of Exports made :

Sl. No.	S.No. in Part E	Description	Quantity imported	FOB Value in Rs./in equivalent US\$
1	2	3	4	5

1. I/We hereby declare that information given in this statement is correct.
2. I/We hereby declare that no benefit under Rule 18 or Rule 19 of Central Excise Rules, 2001 has been

availed in respect of exports made under this DEEC.

Signature.....
Name of the Signatory.....
Designation.....
Full Address.....

Certificate of Chartered Accountant/Cost Accountant

I have examined the applicant firm's actual imports and exports as given above and find them as correct.

Seal.....

Signature.....

Membership No.....

