

**GENERAL EXEMPTION NO.108****Exemption to goods imported into India, against an Advance Authorisation for Annual Requirement with actual user condition in terms of Paragraph 4.1.10 of the Foreign Trade Policy:**

**[Notifn. No. 99/09-Cus., dt.11.9.2009 as amended by 123/09, 90/10, 93/10, 40/11, 37/12, 40/12, 50/12, 4/13, 20/13, 5/15, 36/16, 54/16, 8/17, 26/17, 3/18, 25/2020 dt. 21.05.2020]**

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 Authorisation for Annual Requirement (hereinafter referred to as the said Authorization) with actual user condition in terms of Paragraph 4.1.10 of the Foreign Trade Policy 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, safeguard duty leviable thereon under Section 8B, and anti-dumping duty leviable thereon under Section 9A of the said Customs Tariff Act, subject to the following conditions namely,-

- i. that the said licence is produced before the proper officer of customs at the time of clearance for debit the quantity and value of imports;
- ii. that the said authorisation bears,-
  - (a) the name and address of the supporting manufacturer also in such cases where the authorisation has been issued to a merchant exporter;
  - (b) the shipping bill number(s) and date(s) and description, quantity and value of exports of the resultant product in cases where import takes place after fulfilment of export obligation; or
  - (c) the description, Cost Insurance Freight value and other specifications of the imported materials and the description, quantity and Free on Board value of exports of the resultant product covered under an export product group specified in the Hand Book of Procedures Volume 1, in such cases where import takes place before fulfilment of export obligation;

Provided further that in respect of the inputs specified in paragraph 4.24A (i) of the Hand Book of Procedures, Volume 1 of the Foreign Trade Policy, the material permitted in the said authorization shall be of the same quality, technical characteristics and specifications as the materials used in the export of the resultant product:

Provided also that the exporter shall give declaration with regard to the technical characteristics, quality and specifications of materials used in the export of resultant product, in the shipping bill;

- iii. that the authorizations issued on the basis of self declaration where Standard Input Output Norms are not fixed, shall also be valid for import of inputs required for the manufacture of export products provided the authorization holder shall prove to the satisfaction of the jurisdictional Assistant Commissioner of Customs or Deputy Commissioner of Customs, as the case may be, that an application in Aayat Niryat form along with documents specified therein

has been submitted to the Director General of Foreign Trade, in terms of para 4.7 of the Hand Book of Procedures , Volume 1 of the Foreign Trade Policy before making the first shipment;

- iv. that in respect of imports made before the discharge of export obligation, 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 Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be, binding himself to pay on demand an amount equal to the duty leviable, but for the exemption contained herein, on the imported materials in respect of which the conditions specified in this notification are not complied with, together with interest at the rate of fifteen percent per annum from the date of clearance of the said materials;
- v. that in respect of imports made after the discharge of export obligation, if facility of CENVAT Credit under CENVAT Credit Rules, 2004 has been availed, then the importer shall, at the time of clearance of the imported materials furnish a bond to the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be, binding himself, to use the imported materials in his factory or in the factory of his supporting manufacturer for the manufacture of dutiable goods and to submit a certificate, from the jurisdictional Central Excise officer or from a specified chartered accountant within six months from the date of clearance of the said materials, that the imported materials have been so used:

Provided further that if the importer pays additional duty of customs leviable on the imported materials but for the exemption contained herein, then the imported materials may be cleared without furnishing a bond specified in this condition and the additional duty of customs so paid shall be eligible for availing CENVAT Credit under the CENVAT Credit Rules, 2004;

- vi. that in respect of imports made after the discharge of export obligation in full, and if facility under rule 18 or sub-rule (2) of rule 19 of the Central Excise Rules, 2002 or CENVAT credit under CENVAT Credit Rules, 2004 has not been availed and the importer furnishes proof to this effect to the satisfaction of the Deputy Commissioner of Customs or the Assistant Commissioner of Customs as the case may be, then the imported materials may be cleared without furnishing a bond specified in condition (v);
- vii. that the imports and exports are undertaken through seaports at Bedi (including Rozi-Jamnagar), Chennai, Cochin, Dahej, Dhamra, Dharamtar, Dighi, Gopalpur, Haldia (Haldia Dock Complex of Kolkata Port), Hazira (Surat), Kakinada, Kandla, Kattupalli (Tamil Nadu), Kolkata, Krishnapatnam and Ennore (Tamil Nadu) and Karaikal (Union territory of Puducherry), Magdalla, Mangalore, Marmagoa, Muldwarka, Mumbai, Mundhra, Nagapattinam, Nhava Sheva, Okha, Paradeep, Pipavav, Porbander, Sikka, Tuticorin, Visakhapatnam and Vadinar or through any of the airports at Ahmedabad, Bangalore, Bhubaneswar, Calicut, Chennai, Cochin, Coimbatore, Dabolim (Goa), Delhi, Hyderabad, Indore, Jaipur, Kolkata, Lucknow (Amausi), Mumbai, Nagpur, Rajasansi (Amritsar), Srinagar, Trivandrum , Varanasi and Visakhapatnam or through any of the Inland Container Depots at Agra, Ahmedabad, Anaparthly (Andhra Pradesh), Babarpur, Bangalore, Bhadohi, Bhatinda, Bhilwara, Bhiwadi, Bhusawal,

Chheharata (Amritsar), Coimbatore, Dadri, Dappar (Dera Bassi), Daulatabad (Wanjarwadi and Maliwada), Delhi, Dighi (Pune), Durgapur (Export Promotion Industrial Park), Faridabad, Garhi Harsaru, Gauhati, Marripalem Village in Taluk of Edlapadu, District Guntur and Tondiarpet (TNPM), Chennai and Irungattukottai, SIPCOT Industrial Park, Kattrambakkam Village, Sriperumbudur Taluk, Kanchipuram District, Tamil Nadu and Melapakkam Village (Arakkonam Taluk, Vellore District), Hosur (Tamil Nadu), Nattakkam Village (Kottayam Taluk and District), Kalinganagar and Tumb Village (Taluka Umbergaon, District Valsad), Hyderabad, Jaipur, Jalandhar, Jamshedpur, Jodhpur, Kanpur, Karur, Kota, Kundli, Loni (District Ghaziabad), Ludhiana, Madurai, Malanpur, Mandideep (District Raisen), Miraj, Moradabad, Nagpur, Nasik, Pimpri (Pune), Pitampur (Indore), Pondicherry, Raipur, Rewari, Rudrapur (Nainital), Salem, Singanalur, Surat, Surajpur, Tirupur, Tuticorin, Udaipur, Vadodara, Varanasi, , Waluj (Aurangabad) Talegoan (District Pune), Dhannad Rau (District Indore), Kheda (Pithampur, District Dhar), Patli (Gurgaon), Irugur Village (Tamil Nadu), Thudiyalur (Tamil Nadu), Chettipalayam (Tamil Nadu) and Veerapandi (Tamil Nadu) (Tamil Nadu) and Marripalem Village in Taluk of Edlapadu, District Guntur or through the Land Customs Station at Agartala, Amritsar Rail Cargo, Attari Road, Changrabandha, Dawki, Ghojadanga, Hilli, Jogbani, Mahadipur, Nepalganj Road, Nautanva (Sonauli), Petrapole, Ranaghat, Raxaul, Singhabad and Sutarkhandi or a Special Economic Zone notified under section 4 of the Special Economic Zones Act, 2005 (28 of 2005):

Provided that the Commissioner of Customs may within the jurisdiction, by special order, or by a Public Notice, and subject to such conditions as may be specified by him, permits import and export from any other seaport/airport/inland container depot or through any land customs station;

- viii. that sourcing of the imported materials from Private Bonded Warehouses set up under paragraph 2.28 of the Foreign Trade Policy would be allowed;
- ix. that the export obligation as specified in the said authorization (both in value and quantity terms) is discharged within the period specified in the said authorization or within such extended period as may be granted by the Regional Authority by exporting resultant products, manufactured in India which are specified in the said authorization and in respect of which facility under rule 18 or sub-rule (2) of rule 19 of the Central Excise Rules, 2002 has not been availed:

Provided that an Advance Intermediate authorization holder shall discharge export obligation by supplying the resultant products to exporter in terms of paragraph 4.1.3 (ii) of the Foreign Trade Policy;

- x. that the importer produces evidence of discharge of export obligation to the satisfaction of the Deputy Commissioner of Customs or Assistant Commissioner of Customs, within a period of sixty days of the expiry of period allowed for fulfilment of export obligation, or within such extended period as the said Deputy Commissioner of Customs or Assistant Commissioner of Customs, may allow;
- xi. that the exempt materials shall not be disposed of or utilized in any manner except for 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:

Provided that the said materials may be transferred to a job worker for processing subject to complying with the conditions prescribed in the relevant goods and services tax provisions notifications permitting transfer of materials for job work:

Provided further that, no such transfer for purposes of job work shall be effected to the units located in areas eligible for area based exemptions from the levy of excise duty in terms of notification Nos. 49/03-CE and 50/03-CE both dated 10th June,2003, 32/99-CE dated 8th July,1999, 33/99-CE dated 8th July,1999, 8/04-CE dated 21st January,.2004, 20/07-CE dated 25th April,.2007,56/02-CE dated 14th November, 2002,57/02-CE dated 14th November,.2002, 71/03-CE dated 9th September,.2003, 56/03-CE dated 25th June,.2003 and 39/01-CE dated 31st July,.2001;

- xii. that in relation to the said Authorization issued to a manufacturer exporter or merchant exporter, any bond required to be executed by the importer in terms of this notification shall be executed jointly by the manufacturer exporter or merchant exporter as the case may be and the supporting manufacturer binding themselves jointly and severally to comply with the conditions specified in this notification.
- (xiii) that the exemption from safeguard duty and anti-dumping duty shall not be available in respect of material imported-
  - (a) for supply of goods against Advance Authorisation or Advance Authorisation for annual requirement or Duty Free Import Authorisation;
  - (b) for supply of goods to Export Oriented Unit (EOU) or Software Technology Park (STP) or Electronic Hardware Technology Park (EHTP) or Biotechnology Park (BTP);
  - (c) for supply of capital goods to Export Promotion Capital Good (EPCG) Authorisation holders;
  - (d) for supply of marine freight containers by 100% Export Oriented Unit (Domestic freight containers-manufacturers) where said containers are exported out of India within 6 months or such further period as permitted by customs; and
  - (e) for supply to projects funded by UN Agencies.”

(2). Notwithstanding anything contained in the notification, the actual user condition specified in condition numbers (ix) and (xi) shall not be applicable in respect of authorisation issued for import of raw sugar for imports made from 17th February, 2009 till 30th September, 2009 and the export obligation may also be fulfilled by procuring white sugar from any other factory with effect from the 17th February, 2009.

Explanation.- For the purposes of this notification,-

- (i) “Dutiable goods” means excisable goods which are not exempt from central excise duty and which are not chargeable to ‘nil’ rate of central excise duty;

- (ii) “Foreign Trade Policy” means the Foreign Trade Policy 2009-2014, published by the Government of India in the Ministry of Commerce and Industry vide notification No.1 /2009-2014, dated the 27th August 2009 as amended from time to time;
- (iii) “Licensing Authority or Regional 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 authorized by him to grant a licence under the said Act;
- (iv) “Manufacture” has the same meaning as assigned to it in paragraph 9.37 of the Foreign Trade Policy;
- (v) “Materials” means
- (a) raw materials, components, intermediates, consumables, catalysts and parts which are required for manufacture of resultant product;
  - (b) mandatory spares within a value limit of ten per cent. of the value of the licence which are required to be exported along with the resultant product;
  - (c) fuel required for manufacture of resultant product;
  - (d) packaging materials required for packing of resultant product;
- (vi) “Specified Chartered Accountant” means a statutory auditor or a Chartered Accountant who certifies the importer’s financial records under the Companies Act, 1956 ( 1 of 1956) or the Sales Tax/ Value Added Tax Act of the State Government or the Income Tax Act, 1961 ( 43 of 1961).

