

D. ADVANCE LICENCES FOR DEEMED EXPORTS :**GENERAL EXEMPTION NO. 22****Exemption to goods when imported against an Advance Licence for Deemed Exports.**

[Notfn. No. 91/04-Cus. dt. 10.9.2004 as amended by 46/05, 77/05, 97/05, 43/06, 63/07, 116/07, 70/08, 19/09, 123/09, 93/10, 37/12, 40/12, 50/12, 4/13, 20/13, 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 required for the manufacture of the final goods when imported into India, from **whole of the duty of customs** leviable thereon under 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, -

**Substituted vide sec.139 of Finance Act, 2016 (w.e.f 10.9.2004)*

Provided that exemption from safeguard duty and anti-dumping duty shall not be available in respect of materials required for final goods as defined in clause (a), (b), (c), (h) and (i) of the explanation to this notification,-

subject to the following conditions, namely,-

- (i) that the importer has been granted **Advance Licence for deemed export or Advance Authorisation** for deemed exports by the Regional Authority in terms of paragraph 4.1.3 (c) or 4.1.3 (iii) respectively of the Foreign Trade Policy permitting import of the said materials (hereinafter referred to as the said Licence or authorisation) and the said licence or authorisation is produced by the importer at the time of clearance for debit by the proper officer of Customs.
- (ii) that the said licence or authorisation contains the endorsements specifying, *inter alia*,
 - (a) the description, quantity and value of materials allowed to be imported under the said licence;
 - (b) the description and quantity of materials allowed to be imported duty free; and
 - (c) the description and quantity of final goods to be manufactured out of, or with, the imported materials;
- (iii) that the importer 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 on the imported material but for the exemption contained herein, 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 materials;
- (iv) that the importer produces evidence of having discharged obligation to supply final goods to the satisfaction of the said Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be, within a period of thirty days from the expiry of the period allowed for fulfilment of obligation to supply final goods or within such extended period as the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be, may allow; and

(v) that the exempt materials are utilised for manufacture of final goods and no portion of such materials shall be loaned, transferred, sold or disposed of in any other manner :

Provided that where final goods in respect of which the said materials have been imported have already been manufactured and supplied as required under this notification, the importer may use the said materials for the manufacture of any other goods;

Provided further that where the Bond filed under condition (iii) against the said licence or authorisation, has been redeemed by the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be, the unutilised material may be transferred to any other manufacturer for processing under actual user condition after complying the central excise procedure or the goods and services tax procedure relating to job work, as the case may be.

(vi) that the imports and exports are undertaken through sea ports at Mumbai, Kolkata, Cochin, Magdalla, Kakinada, Kandla Mangalore, Mormogoa, Chennai, Nhava Sheva, Paradeep, Pipavav, Sikka, Tuticorin, Visakhapatnam, Dahej, Mundhra, Nagapattinam, Okha, Bedi (including Rozi-Jamnagar), Muldwarka, Porbander, Dharamtar and Vadimar and Haldia (Halida Dock Complex of Kolkata Port), Krishnapatnam and Ennore (Tamil Nadu), Karaikal (Union territory of Puducherry) and Kattupalli (Tamil Nadu) or through any of the airports at Ahmedabad, Bangalore, Bhubaneswar, Mumbai, Kolkata, Coimbatore, Delhi, Hyderabad, Jaipur, Chennai, Srinagar, Trivandrum, Varanasi, Nagpur, Cochin, Rajasansi (Amritsar), Lucknow (Amausi), Indore and Dabolim (Goa) and Visakhapatnam 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), 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), Mairipalem Village in Taluk of Edlapadu, District Guntur and Tondiarpet (TNPM), Chennai and Irungattukottai, SIPCOT Industrial Park, Kattrambakkam Village, Sriperumbudur Taluk, Kanchipuram District, Tamil Nadu, Anaparthi (Andhra Pradesh), Salem, Malanpur, Singanalur, Jodhpur, Kota, Udaipur, Ahmedabad, Bhiwadi, Madurai, Bhilwara, Pondicherry, Garhi Harsaru, Bhatinda, Dappar (Dera Bassi), Chheharata (Amritsar), Karur, Miraj, Rewari, Bhusawal, Jamshedpur, Surajpur, Dadri, Tuticoin, Kundli, Bhadohi, Raipur, Mandideep (District Raisen), Durgapur (Export Promotion Industrial Park), Babarpur and Loni (District Gaziabad) or through the Land Customs Station at Ranaghat, Singhabad, Raxaul, Jogbani, Nautanva (Sonauli), Petrapole, Mahadipur, Nepalganj Road, Dawki, Agartala, Sutarkhandi, Amritsar Rail Cargo Attari Road, Hilli, Ghojadanga and Changrabandha or Special Economic Zone as specified in the notification issued under section 76A of the Customs Act, 1962 (52 of 1962).

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 sea port, airport or inland container depot or through a land customs station.

2. The said materials required for the manufacture of the final goods, when imported into India and supplied to Export Oriented Unit, Electronic Hardware Technology Park and Software Technology Park, shall be exempted from the whole of the duty of customs leviable thereon, under the First Schedule to the said Customs Tariff Act 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 conditions mentioned in Paragraph 1.

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 – For the purposes of this notification

- (i) “Export Oriented Units” has the same meaning as assigned to it in paragraph 9.24 of the Foreign Trade Policy;
- (ii) “final goods” means -
 - (a) supplies against Advance Licence/ Advance Licence for Annual Requirement/Duty Free Replenishment Certificate under the Duty Exemption/Remission Scheme;
 - (b) supplies made to Export Oriented Units or Software Technology Parks or Electronic Hardware Technology Parks ;
 - (c) supply of goods to the holders of licence under Chapter 5 of the Foreign Trade Policy;
 - (d) supplies made to projects financed by multilateral or bilateral Agencies or funds as notified by the Government of India in the Ministry of Finance (Department of Economic Affairs) under the International Competitive Bidding in accordance with the procedures of those Agencies or funds where an agreement provides for tender evaluation without including the duties of customs;
 - (da) Supply and installation of goods and equipment (single responsibility of turnkey Contracts) to projects financed by Multilateral or bilateral agencies or funds as notified by the Government of India in the Ministry of Finance (Department of Economic Affairs) under international competitive bidding in accordance with the procedures of those agencies or funds, where the bids have been invited and evaluated on the basis of Delivered Duty Paid (DDP) prices for the goods manufactured abroad.
 - (e) supply of capital goods including capital goods in unassembled or disassembled condition including plant, machinery, accessories, tools, dies and such goods which are used for installation purpose till the stage of commercial production, and spares to the extent of 10 per cent. of the FOR value of such capital goods for fertilizer plants where such supplies are made by following the procedure of International Competitive Bidding without including the element of duties of customs.
 - (f) supply of goods to any project or purpose in respect of which the Government of India in the Ministry of Finance, by notification, permits the import of such goods at Zero duty of customs and where such supplies are made by following the procedure of International Competitive Bidding without including the element of duties of customs;
 - (g) supply of goods to power and refinery projects not covered in sub-clause (f) where such supplies are made by following the procedure of International Competitive Bidding without including the element of duties of customs;
 - (h) supply of Marine Freight Containers by Export Oriented Units (Domestic freight containers manufacturers) provided the said containers are exported out of India within 6 months or such further period as may be permitted by the Deputy Commissioner of Customs or the Assistant Commissioner of Customs as the case may be;

- (i) supplies made to projects funded by United Nation Agencies;
- (j) supplies of goods to nuclear power projects where such supplies are made by following the procedure of Competitive Bidding as opposed to International Competitive Bidding ;
- (iii) “Foreign Trade Policy” means Foreign Trade Policy 2004-09 published vide notification of the Government of India in the Ministry of Commerce & Industry, No. 1/2004, dated the 31st August, 2004;
- (iv) “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 authorized by him to grant a licence under the said Act;
- (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 10 percent. of the value of the licence which are required to be exported alongwith the resultant product;
 - (c) fuel required for manufacture of resultant product; and
 - (d) packaging materials required for packing of resultant product.

