

GENERAL EXEMPTION NO. 42

Concessional Customs duty of 10% on capital goods, components & spares thereof imported under EPCG scheme - EXIM Policy 1997-2002.

[Notfn. No. 28/97-Cus. dt. 1.4.1997 as amended by Notfn. No. 8/98, 33/98, 42/98, 56/99, 52/00, 49/02, 113/02, 14/03, 44/03, 29/04, 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 goods as specified in the Table annexed hereto from so much of the **duty of Customs** leviable thereon which is specified in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) as is **in excess of** the amount calculated at the rate of **10% advalorem** and from **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:-

- (1) The goods imported are covered by a **valid licence** issued under the **Export Promotion Capital Goods (E.P.C.G.) Scheme** in terms of Export and Import Policy (hereinafter referred to as the said policy) permitting import on payment of duty of Customs at the rate of 10% and the said licence is produced for debit by the proper officer of the customs at the time of clearance:

Provided that for the import of spare parts, the validity period of the licence shall be deemed to be the period permitted for fulfillment of the export obligation in full.

- (2) The importer executes a bond in such form and for such sum and with such surety or security as may be specified by the Assistant Commissioner of Customs binding himself to fulfil export obligation equivalent to **four times the CIF value** of the goods imported or for such higher sum as may be fixed by the Licensing Authority within a period of **five years** from the date of issue of the said licence in the following proportions:-

S.No.	Period from the date of issue of licence	Proportion of total export obligation
1.	Ist year	Nil
2.	2nd year	10%
3.	3rd year	20%
4.	4th year	30%
5.	5th year	40%

Provided that where a sick unit notified by the Board for Industrial and Financial Reconstruction is subsequently taken over by another unit for revival, the export obligation may be fulfilled within a period of 12 years from the date of issue of said license;

Provided further that export obligation of a particular year may be set off by the excess exports made in the preceding years.

- (3) The importer produces within thirty days of the expiry of each year from the date of issue of licence from 2nd year or within such extended period as the Assistant Commissioner of Customs or Deputy Commissioner of Customs may allow, evidence to the satisfaction of the Assistant

Commissioner of Customs or Deputy Commissioner of Customs showing the extent of export obligation fulfilled, and where export obligation of any particular year is not fulfilled in terms of the preceding condition, the importer shall within three months from the expiry of the said year pay an amount equal to that portion of the duty leviable on the goods but for the exemption contained herein which bears the same proportion as the unfulfilled portion of the export obligation bears to the total export obligation together with interest at the rate of 15% per annum from the date of clearance of the goods. *(As per Sec.120 (1) of Finance Bill 2003 the rate of 15% is applicable w.e.f. 1.4.1997).*

- (4) The importer shall, if he fails to discharge a minimum of 25% of the export obligation prescribed for any particular year, for three consecutive years, be liable to pay forthwith the whole of the duty of customs leviable on the goods imported but for the exemption contained in this notification together with interest at the rate of 15% per annum from the date of clearance of the goods. *(As per Sec. 120(1) of Finance Bill 2003 the rate of 15% is applicable w.e.f. 1.4.1997).*
- (5) The capital goods imported, assembled or manufactured are **installed** in the importer's factory and a certificate from the Assistant Commissioner of Customs or Deputy Commissioner of Customs having jurisdiction over the importer's factory or premise or independent Chartered Engineer, as the case may be, is produced confirming installation and use of capital goods in importer's factory or premises, within six months from the date of completion of imports or within such extended period as the said Assistant Commissioner of Customs or Deputy Commissioner of Customs referred to in condition (2) above may allow:

Provided that in case of -

- (i) Manufacturer exporter and merchant exporter having supporting manufacturer (s)/vendor(s),
- (ii) import of irrigation equipment for use in contract farming for export of agriculture products, and
- (iii) importer rendering services,

the capital goods may be installed at the factory/premises of such other person whose name and address are endorsed on the licence referred to in condition (1) and where the bond for full difference of duty, if necessary, in terms of condition (2) with a **Bank Guarantee** is executed by the importer and such other person binding themselves jointly and severally to fulfil the export obligation and all other conditions of this notification and to pay duty with interest in case of default;

Provided further that in case of importers rendering services not required to be registered with Central Excise authorities, a certificate from independent Chartered Engineer confirming the installation and use of capital goods in the importer's premises may be produced.

- (6) Notwithstanding anything contained in conditions (3) and (4), where the Licensing Authority grants an extension of yearwise period for any year(s) or overall period of fulfilment of export obligation upto a period of two years or regularisation of shortfall, in export obligation not exceeding 5% of such export obligation, the said yearwise period or overall period of export obligation may be extended and the said shortfall in export obligation be condoned by the Assistant Commissioner of Customs or Deputy Commission of Customs.

Provided that in respect of licence holder units affected by the earthquake in the State of Gujarat in the month of January 2001, the Licensing Authority may grant extension in the overall period of export obligation up to one more year:

Provided further that in case of a license holder unit referred to in the first proviso, having overall export obligation period of 13 years and in case of other licence having export obligation period of 12 years, extension of overall period of export obligation shall not be allowed.

2. 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.

TABLE

S.No.	Description of goods
(1)	(2)
1.	Capital goods.
2.	Capital goods in SKD/CKD condition to be assembled into capital goods by the importer.
3.	Components of capital goods required for assembly or manufacture of capital goods by the importer.
4.	Spare parts not exceeding 20% of the value of goods specified at serial Nos. 1,2 and 3 actually imported and required for maintenance of the capital goods so imported, assembled, or manufactured.

Explanation.- In this notification,-

- (i) “Capital goods” means any plant, machinery, equipment and accessories required for-
- (a) manufacture or production of other goods, including packaging machinery and equipments, refractories, refrigeration equipment, power generating sets, machine tools, catalysts for initial charge, and equipment and instruments for testing, research and development, quality and pollution control;
- (b) use in manufacturing, mining, agriculture, aquaculture, animal husbandry, floriculture, horticulture, pisciculture, poultry viticulture and sericulture;
- (c) rendering services ;
- (ii) “Export and Import Policy” means the Export and Import Policy, April, 1997- March, 2002 published vide notification of the Government of India in the Ministry of Commerce No. 1/1997-2002, dated the 31st March, 1997.

- (iii) “Licensing Authority” means the Director General, 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;
- (iv) “export obligation”,
 - (a) in relation to importers other than those rendering services, means export to a place out side India of products manufactured with the use of capital goods imported, assembled or manufactured in terms of this notification or making of supplies of such products in terms of clauses (a), (b), (d), (f) and (g) of paragraph 10.2 of the Export and Import Policy.
 - (b) in relation to importers rendering services, means receiving payments in freely convertible foreign currency for services rendered through the use of such capital goods; and
 - (c) means, export of goods in terms of the notification of the Government of India in the Ministry of Commerce and Industry (Department of Commerce) No.28(RE-2003)/2002-2007, dated the 28th January, 2004.