

GENERAL EXEMPTION NO. 44

Concessional rate of duty of 15% for imports of Capital goods, components and spares under EPCG scheme - EXIM Policy 1997-2002.

[Notfn. No.110/95-Cus. dt. 5.6.1995 as amended by Notfn. No. 132/95, 146/95, 154/95, 31/96, 69/96, 95/96, 8/98, 42/98, 75/98,56/99, 113/02, 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 **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 **15% ad valorem** and **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 on or after 1st May, 1995** 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 15% 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 fulfilment of the export obligation in full

- (2) Omitted
- (3) 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 or Deputy 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.	1st year	NIL
2.	2nd year	10%
3.	3rd year	20%
4.	4th year	30%
5.	5th year	40%

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

- (4) 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 2[Assistant Commissioner of Customs or Deputy Commissioner of Customs] may allow, evidence to the satisfaction of the 3[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 w.e.f. 19.9.1995).*

- (5) 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 w.e.f. 19.9.1995).*
- (6) The capital goods imported, assembled or manufactured are installed in the importer's factory or premises and a certificate from the Assistant Commissioner of Customs or Deputy Commissioner of Customs having jurisdiction over the importer's factory or premises 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 (3) above, may allow.

Provided that the capital goods may be installed in the factory of another manufacturer whose name and address are endorsed on the licence referred to in condition (1) where the bond for the full difference of duty in terms of condition (3), with a **Bank Guarantee** is executed by the importer and such manufacturer binding themselves jointly and severally to fulfil the export obligations and all other conditions of this notification and to pay duty with interest in case of default.

- (7) Notwithstanding anything contained in conditions (3) And (4), where the Licensing Authority grants an extension of yearwise period or overall period of fulfilment of export obligation 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:

Provided that extension of yearwise period of export obligation shall not be allowed more than once and more than a period of one year within a period of five years.

Provided further that where the Licensing Authority grants further extension of the period for fulfilment of export obligation beyond the period as specified in this condition, then, subject to the satisfaction of such conditions as may be specified in a Public Notice of the Government of India in the Ministry of Commerce and Industry in this regard, such export obligation may be extended, but shall in no case be extended beyond the 31st day of March, 2004. *(As per sec. 120(1) of Finance Bill 2003 this proviso is applicable w.e.f. 30.4.2000).*

2. 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 10% 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,-

- (1) "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 and sericulture;
 - (c) rendering services;
- (ii) "Export and Import Policy" means the Export and Import Policy 1 April 1992 - 31 March 1997 (Revised edition : March 1995) published vide notification of the Government of India in the Ministry of Commerce No.1 (RE-95)/92-97 dated the 31st March, 1995;
- (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) Omitted
- (v) "export obligation", in relation to importers other than those rendering service means export to a place outside India of products manufactured with the use of capital goods imported, assembled or manufactured in terms of this notification; brackets, letters and figures in terms of this notification, for making of supplies of such products in terms of clauses (a), (b), (c), (e) (f) and (i) of para 121 of the Export and Import Policy and para 10.2 (g) of the Export and Import Policy 1997-2002 corrected upto 13th April, 1998 shall be substituted and, in relation to importers rendering services, means receiving payments in freely convertible foreign currency for services rendered through the use of such capital goods.