

GENERAL EXEMPTION NO. 45

Nil Customs duty & 10% additional duty on Capital goods, components & spares imported against an EPCG Licence - EXIM Policy 1992-97.

[Notfn. No. 111/95-Cus. dt. 5.6.1995 as amended by Notfn. No. 145/95, 154/95, 32/96, 70/96, 96/96, 70/97, 88/97, 18/98, 42/98, 75/98, 56/99, 49/02, 113/02, 116/02, 44/03, 29/04, 65/04, 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 specified in the Table annexed hereto from **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 so much of the **additional duty** leviable thereon under sub-sections (1), (3) and (5) of section 3 of the said Customs Tariff Act, as is **in excess** of the amount calculated at the rate of **10%** of the value of goods:

Provided that where the said goods are required for the manufacture of **leather garments, textile garments (including knitwears), agro products and products of horticulture and floriculture and poultry** such goods shall be **exempt from the whole of the additional duty** leviable thereon under section 3 of the said Customs Tariff Act.

2. The exemption contained in paragraph 1 shall be subject to the following conditions, namely:-

- (1) The goods imported are covered by a valid licence 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 of goods free of duty 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 **six times the CIF value** of the goods imported on FOB basis, or **four times of the CIF value on Net foreign Exchange basis** as specified in the licence, or for such higher amount as may be fixed by the Licensing Authority or for such amount as may be fixed by the Licensing Authority in terms of clause (i) of Paragraph 5.4 of the Export and Import Policy, 2002-2007, within a period of **eight years** in the following proportions :-

S.No.	Period from the date of issue of licence	Proportion of total export obligation
1	2	3
1.	Block of 1st and 2nd year	NIL
2.	Block of 3rd and 4th year	15%
3.	Block of 5th and 6th year	35%
4.	Block of 7th and 8th year	50%

Provided that where the CIF value of licence is **not less than Rs.100 crores**, the export obligation shall be fulfilled within a period of **12 years** from the date of issue of licence in the following proportions, namely:-

S.No.	Period from the date of issue of Licence	Proportion of Total Export Obligation
1	2	3
1.	Block of 1st, 2nd, 3rd, 4th and 5th Year	Nil
2.	Block of 6th, 7th and 8th Year	15%
3.	Block of 9th and 10th Year	35%
4.	Block of 11th and 12th Year	50%

Provided further that where a sick unit notified by the Board for Industrial and Financial Reconstruction (BIFR) 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 license.

Provided also that export obligation of a particular block may be set off by the excess exports made in the said preceding block(s).

- (4) The importer produces within 30 days from the expiry of each block of two years from the date of issue of licence from the second block 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 the export obligation of any particular block of two years is not fulfilled in terms of the preceding condition, the importer shall within three months from the expiry of the said block pay duties of customs of an amount equal to that portion of duties 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.
- (5) The importer, shall, if he fails to discharge a minimum of 25% of the export obligation prescribed for any particular block of two years for two consecutive blocks, be liable to pay forthwith, the whole of the duties 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.
- (6) The importer shall, if he fails to import goods for a minimum value of twenty crores of rupees within the validity period of the import licence, be liable to pay forthwith the whole of the duties of customs leviable on the goods imported but for exemption contained in this notification together with interest at the rate of 24% per annum from the date of clearance of the goods.
- (7) 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.

- (8) Notwithstanding anything contained in conditions (4) and (5), where the Licensing Authority grants extension of blockwise period for any block(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 blockwise 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 Commissioner 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.

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 as actually imported and required for maintenance of 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 equipments 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;
- (2) "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;
- (3) "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;
- (4) Omitted
- (5) "export obligation" means-
- (i) export to a place outside 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), (c), (e), (f) and (i) of paragraph 121 of the Export and Import Policy and para 10.2 (g) of the Export and Import Policy 1997-2002 corrected up to 13th April, 1998; and
 - (ii) 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, dt. the 28th January, 2004.
- (6) "Net foreign exchange" means FOB value of products exported in discharge of obligation in terms of this notification minus CIF value of inputs used in manufacture thereof where such inputs have been-
- (a) imported by the importer directly;
 - (b) imported by another person and supplied to importer without undergoing any process of manufacture;
 - (c) procured indigenously, for which the importer claims replenishment under the Duty Exemption Scheme as contained in chapter VI of the Export and Import Policy.