

**[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II,
SECTION 3, SUB-SECTION (i)]
GOVERNMENT OF INDIA
MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)**

Notification No. 76/2021-Customs (N.T.)

New Delhi, the 23rd September, 2021

G.S.R. (E).- In exercise of the powers conferred by sub-section (1) of section 51B of the Customs Act, 1962 (52 of 1962) (hereinafter referred to as “the said Act”), the Central Government, hereby notifies the manner to issue duty credit for goods exported under the Scheme for Remission of Duties and Taxes on Exported Products (hereinafter referred to as the “Scheme”), subject to such conditions and restrictions as specified herein, in accordance with paragraph 4.01(e) of the Foreign Trade Policy (hereinafter referred to as “FTP”).

2. Such duty credit shall be subject to the following conditions, namely:-

(1) that the duty credit is issued -

(a) in lieu of remission of any duty or tax or levy, chargeable on any material used in the manufacture or processing of goods or for carrying out any operation on such goods in India that are exported, where such duty or tax or levy is not exempted, remitted or credited under any other Scheme;

(b) against export of goods notified in Appendix 4R (hereinafter referred to as the “Appendix”) of the FTP, at the respective rate and cap notified under the said Appendix:

Provided that the value of the said goods for calculation of duty credit to be allowed under the Scheme shall be the declared export FOB value of the said goods or up to 1.5 times the market price of the said goods, whichever is less;

(c) against claim of duty credit under the Scheme made by an exporter by providing the appropriate declaration at the item level in the shipping bill or bill of export in the customs automated system;

(d) against the shipping bill or bill of export, presented under section 50 of the said Act on or after the 1st day of January, 2021, and where the order permitting clearance and loading of goods for exportation under section 51 of the said Act has been made;

(e) after the claim is allowed by Customs upon necessary checks, including on the basis of risk evaluation through appropriate selection criteria, and after filing of export manifest or export report;

(f) in accordance with any rules or regulations issued in relation to duty credit, e-scrip or electronic duty credit ledger;

(2) that such duty credit shall be used for payment of the duty of customs leviable under the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) on goods when imported into India;

(3) that the export categories or sectors listed in Table-1 annexed hereto shall not be eligible for duty credit under the Scheme;

(4) that the duty credit allowed under the Scheme against export of goods notified in the Appendix shall be subject to realization of sale proceeds in respect of such goods in India within the period allowed under the Foreign Exchange Management Act, 1999 (42 of 1999); failing which such duty credit shall be deemed to be ineligible;

(5) that the imports and exports are undertaken through the seaports, airports or through the inland container depots or through the land customs stations which allow the bill of entry and shipping bill or bill of export to be presented and processed electronically on the customs automated system;

(6) that the exporter has realised the sale proceeds against export of goods made earlier by the said exporter where the period allowed for realization, including any extension of the said period by the Reserve Bank of India, has expired:

Provided that duty credit shall be issued by Customs in excess of the ineligible amount of duty credit pertaining to the unrealised portion of sale proceeds against export of goods made earlier:

Provided further that if the Principal Commissioner of Customs or Commissioner of Customs has reason to believe, on the basis of risk evaluation or on the basis of enquiry, that the claim of duty credit made by an exporter on export goods may not be bona fide, he may direct, for reasons to be recorded in writing, to allow duty credit after realisation of sale proceeds of such exports;

(7) that duty credit under the Scheme for exports made to Nepal, Bhutan and Myanmar shall be allowed only upon realization of sale proceeds against irrevocable letters of credit in freely convertible currency established by importers in Nepal, Bhutan and Myanmar in favour of Indian exporters for the value of such goods.

3. Cancellation of duty credit. - (1) Where a person contravenes any of the provisions of the Act or any other law for the time being in force or the rules or regulations made thereunder in relation to exports to which the duty credit relates, or in relation to the e-scrip, the Principal Commissioner of Customs or Commissioner of Customs having jurisdiction over the customs station of registration of the e-scrip may, after enquiry, pass an order to cancel the said duty credit or e-scrip.

(2) Where the e-scrip is so cancelled, the duty credit amount in the said e-scrip shall be deemed never to have been allowed and the proper officer of Customs shall proceed to recover the duty credit amount used in such e-scrip or transferred from such e-scrip.

(3) The proper officer of Customs may, without prejudice to any other action that may be taken under this Act or any other law for the time being in force, suspend the operation of the said e-scrip or the electronic duty credit ledger of such exporter or any duty credit transferred from such e-scrip, during pendency of the enquiry under sub-clause (1).

4. Recovery of amount of duty credit. - (1) Where an amount of duty credit has, for any reason, been allowed in excess of what the exporter is entitled to, the exporter shall repay the amount so allowed in excess, himself or on demand by the proper officer, along with interest, at the rate as fixed under section 28AA for the purposes of that section, on that portion of duty credit allowed in excess, which has been used or transferred, and where the exporter fails to repay the amount along with interest, as applicable, it shall be recovered in the manner provided in section 142 of the said Act.

(2) The duty credit amount that an exporter is so required to repay under sub-clause (1) shall be deemed never to have been allowed, and if the exporter fails to repay the said amount within a period of fifteen days along with interest so demanded, then the proper officer of Customs may, without prejudice to any action against the exporter, proceed for recovery of the said duty credit amount from the transferee in the manner as provided in section 142 of the said Act.

5. Recovery of amount of duty credit where export proceeds are not realised. - (1) Where an amount of duty credit has been allowed to an exporter but the sale proceeds in respect of such export goods have not been realized by the exporter in India within the period allowed under the Foreign Exchange Management Act, 1999 (42 of 1999), the exporter shall, himself or on demand by the proper officer, repay the amount of duty credit, along with interest, at the rate as fixed under section 28AA of the said act for the purposes of that section, within fifteen days of expiry of the said period.

(2) In case any extension of the said period for realisation of sale proceeds has been given by the Reserve Bank of India and the exporter produces evidence of such extension to the proper officer, and

if the said sale proceeds are not realised in such extended period, the exporter shall repay the said amount of duty credit along with the said interest, within fifteen days of expiry of the said period.

(3) If a part of the sale proceeds has been realized, the amount of duty credit to be recovered shall be the amount equal to that portion of the amount of duty credit allowed which bears the same proportion as the portion of the sale proceeds not realized bears to the total amount of sale proceeds.

(4) Where the exporter fails to repay the duty credit amount within the said period of fifteen days, the said duty credit shall be deemed never to have been allowed and it shall be recovered, along with the said interest, in the manner as provided in section 142 of the said Act.

(5) The proper officer of Customs may, without prejudice to any action against the exporter, proceed for recovery of said duty credit amount from the transferee in the manner as provided in section 142 of the said Act.

6. During the pendency of any recovery, as provided in clauses 4 and 5, no further duty credit, on any subsequent exports, shall be allowed to such exporter till the time such recovery is made and any unutilised duty credit with the exporter or the transferee shall be suspended pending such recovery.

Explanation – For the purposes of this notification -

(a) “Claim” means a claim of duty credit under the Scheme made by an exporter in the shipping bill or bill of export by providing the appropriate declaration at the item level in the said shipping bill or bill of export in the customs automated system;

(b) “Duty credit” means the amount of credit of duty allowed by Customs against a claim under the Scheme;

(c) “Electronic duty credit ledger” means the ledger in the customs automated system relating to a person who is the recipient of duty credit or to person to whom the duty credit is transferred;

(d) “E-scrip” means the scrip, created in the ledger for duty credit, as mentioned in Explanation 1 of section 28AAA of the said Act;

(e) “Export manifest” or “export report” means the reference to the terms used in Section 41 of the said Act;

(f) “Foreign Trade Policy” means the Foreign Trade Policy published by the Government of India in the Ministry of Commerce and Industry and as amended from time to time;

(g) “Proper officer” means Deputy Commissioner or Assistant Commissioner of Customs.

TABLE-1

| Sl. No. | Export categories or sectors ineligible for duty credit |
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| (1) | (2) |
| 1. | Goods which are restricted or prohibited for export under Schedule-2 of Export Policy in ITC-HS |
| 2. | Export of imported goods covered under paragraph 2.46 of Foreign Trade Policy |
| 3. | Exports through trans-shipment, meaning thereby exports that are originating in third country but trans-shipped through India |
| 4. | Goods subject to minimum export price or export duty |

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| 5. | Deemed exports under Foreign Trade Policy |
| 6. | Goods manufactured or exported by any of the units situated in Special Economic Zone/ Free Trade Warehousing Zone/Electronic Hardware Technology park/Bio-Technology park/ Export Processing Zone |
| 7. | Goods manufactured or exported by a unit licensed as hundred per cent Export Oriented Unit |
| 8. | Goods exported under Advance Authorisation or Duty Free Import Authorisation issued under the relevant Foreign Trade Policy |
| 9. | Goods manufactured and supplied by units in Domestic Tariff Area to units in Special Economic Zone/Free Trade Warehousing Zone |
| 10. | Goods manufactured in Special Economic Zone/Free Trade Warehousing Zone / Export Oriented Unit / Electronic Hardware Technology Park /Bio-Technology Park/ Export Processing Zone and exported through DTA unit |
| 11. | Goods manufactured partly or wholly in a warehouse under section 65 of the Customs Act, 1962 (52 of 1962) |
| 12. | Goods availing the benefit of the notification No. 32/1997-Customs, dated the 1 st April, 1997 |
| 13. | Goods for which claim of duty credit is not filed in a shipping bill or bill of export in the customs automated system |
| 14. | Goods that have been taken into use after manufacture. |

[F. No. CBIC-140605/12/2021-O/o Dir(Drawback)- CBEC]

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