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SECTION 3, SUB-SECTION (i)]
GOVERNMENT OF INDIA
MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)

NOTIFICATION No. 26/2023 - Customs

New Delhi, the 1st April, 2023.

G.S.R.(E) .- 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 1 annexed hereto, from, -

(i) the whole of the duty of customs leviable thereon under the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) (hereinafter referred to as the Customs Tariff Act); and

(ii) the whole of the additional duty leviable thereon under sub-sections (1), (3) and (5) of section 3 of the Customs Tariff Act, when specifically claimed by the importer;

(iii) the whole of integrated tax and the goods and services tax compensation cess leviable thereon under sub-sections (7) and (9) of section 3 of the Customs Tariff Act.

2. The exemption under this notification shall be subject to the following conditions, namely: -

(1) that the goods imported are covered by a valid authorisation issued under the Export Promotion Capital Goods (EPCG) Scheme in terms of Chapter 5 of the Foreign Trade Policy permitting import of goods at zero customs duty.

(2) that the authorisation is registered at the port of import specified in the said authorisation and the goods, which are specified in the Table 1 annexed hereto, are imported within validity of the said authorisation and the said authorisation is produced for debit by the proper officer of customs at the time of clearance:

Provided that the catalyst for one subsequent charge shall be allowed, under the authorisation in which plant, machinery or equipment and catalyst for initial charge have been imported, except in cases where the Regional Authority issues a separate authorisation for catalyst for one subsequent charge after the plant, machinery or equipment and catalyst for initial charge have already been imported.

(3) that the goods imported shall not be disposed of or transferred by sale or lease or any other manner till export obligation is complete.

(4) that the importer executes a bond in such form and for such sum and with such surety or security as may be specified by the Deputy Commissioner of Customs or Assistant Commissioner of Customs binding himself to comply with all the conditions of this notification as well as to fulfill export obligation on Free on Board (FOB) basis equivalent to six times the duty saved on the goods imported as may be specified on the authorisation, or for such higher sum as may be fixed or endorsed by the Regional Authority in terms of Para 5.15 of the Handbook of Procedures, within a period of six years from the date of issue of Authorisation, in the following proportions, namely :-

S. No.	Period from the date of issue of Authorisation	Minimum export obligation to be fulfilled
(1)	(2)	(3)
1.	Block of 1 st to 4 th year	50%
2.	Block of 5 th and 6 th year	Balance EO:

Provided that in case the authorisation is issued to a Common Service Provider (CSP), it shall execute the bond with bank guarantee and the bank guarantee shall be equivalent to 100 per cent. of the duty foregone, and the bank guarantee shall be given by CSP or by anyone of the users or a combination thereof, at the option of the CSP:

Provided further that the export obligation shall be 75 per cent. of the normal export obligation specified above when fulfilled by export of following green technology products, namely, Solar Energy Generating Systems and parts or Equipments thereof, Wind Energy Generating Systems and parts or equipment thereof, LED lights of various kind, Vapour Absorption Chillers, Waste Heat Boiler, Waste Heat Recovery Units, Unfired Heat

Recovery Steam Generators, Water Treatment Plants, Battery Electric Vehicles (BEV) [other than Hybrid Electric Vehicles (HEVs) and Plug-in Hybrid Electric Vehicle (PHEV)] of all types, Vertical Farming equipment, Wastewater Treatment and Recycling, Rainwater harvesting system and Rainwater Filters, and Green Hydrogen:

Provided also that for units located in Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura, Jammu and Kashmir and Ladakh, the export obligation shall be 25 per cent. of the normal export obligation specified above:

Provided also that where a unit holding Export Promotion Capital Goods authorisation and have been admitted under provisions of the Insolvency and Bankruptcy Code, 2016 [31 of 2016] for commencement of insolvency proceedings and in respect of whom the resolution plan has been approved under section 31 of Insolvency and Bankruptcy Code, 2016 by Adjudicating Authority shall be permitted to relief, concessions and waivers in accordance with the resolution plan approved or finalized by Adjudicating Authority or Appellate Authorities as the case may be.

(5) that if the importer does not claim exemption from the additional duty leviable under sub-sections (1), (3), (5), (7) and (9) of section 3 of the Customs Tariff Act, the additional duty so paid by him shall not be taken for computation of the net duty saved for the purpose of fixation of export obligation provided the Input Tax Credit of additional duty paid has not been taken.

(6) that the importer, including a CSP, produces within thirty days from the expiry of each block from the date of issue of authorisation or within such extended period as the Deputy Commissioner of Customs or Assistant Commissioner of Customs may allow, evidence to the satisfaction of the Deputy Commissioner of Customs or Assistant Commissioner of Customs showing the extent of export obligation fulfilled, and where the export obligation of any particular block is not fulfilled in terms of the sub-para (4) of para 2, the importer shall within three months from the expiry of the said block pay duties of customs equal to an amount which bears the same proportion to the duties leviable on the goods, but for the exemption contained herein, which the unfulfilled portion of the export obligation bears to the total export obligation, together with interest at the rate of fifteen per cent. per annum from the date of clearance of the goods.

(7) that where the importer fulfills 75 per cent. or more of the export obligation as specified in condition (4) [over and above 100 per cent. of the average export obligation] within half of the period specified for export obligation as mentioned in sub-para (4) of para 2, his balance export obligation shall be condoned and he shall be treated to have fulfilled the entire export obligation:

Provided that the benefit of reduced export obligation in terms of second and third provisos of sub-para (4) of para 2 above is not availed.

(8) that the capital goods imported, assembled or manufactured, are installed and put to use, after their import, in the importer's factory or premises and a certificate from Deputy Commissioner of Customs or Assistant Commissioner of Customs having jurisdiction over importer's factory or premises or from an independent Chartered Engineer, is produced within a period of six months from the date of completion of imports before the Deputy Commissioner of Customs or Assistant Commissioner of Customs at the port of import confirming such installation and use of the capital goods in the importer's factory or premises:

Provided that where the Regional Authority grants extension of the said period beyond six months from the date of completion of imports, the said overall period shall be extended by the Deputy Commissioner of Customs or Assistant Commissioner of Customs as the case may be:

Provided further that an importer (including an importer who is a CSP) opting for the independent Chartered Engineer's certificate shall send a copy of the certificate, upon its issuance, to the jurisdictional Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be, having jurisdiction over importer's factory or premises, as intimation or record:

Provided also that in case of import of spares, the installation certificate shall be produced within three years from the date of import:

Provided also that in the case of manufacturer exporter and merchant exporter having supporting manufacturers or in the case of import of irrigation equipment for use in contract farming for export of agricultural products or in the case of importer rendering services, the capital goods may be installed at the factory or premises of such other person whose name and address is endorsed, prior to installation, by the Regional Authority on the authorisation referred to in sub-para (1) of para 2. This would apply even when Regional Authority endorses a change in the factory or premises or person. The name and address of such other person shall also be mentioned on the relevant shipping bills. This shall not apply to a CSP:

Provided also that agro units located in Agri Export Zones or service providers in Agri Export Zones may move the capital goods within the Agri Export Zones under intimation to the jurisdictional Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be, subject to the condition that the importer shall maintain accurate record of such movement.

(9) that the imports and exports are undertaken through the seaports, airports or through the inland container depots or through the land customs stations as mentioned in the Table 2 annexed hereto or a Special Economic

Zone notified under section 4 of the Special Economic Zones Act, 2005 (28 of 2005):

Provided that the Commissioner of Customs may, by special order or a public notice and subject to such conditions as may be specified by him, permit import and export through any other sea-port, airport, inland container depot or through a land customs station within his jurisdiction.

(10) that notwithstanding anything contained in sub-para (4) of para 2 above, where the Regional Authority grants extension of block-wise period for any block(s) or overall period of fulfillment of export obligation up to a period of two years, the said block-wise period or overall period of export obligation shall be extended by the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be:

Provided that in respect of the units referred to in the fourth proviso to sub-para (4) of para 2 above, extension of overall period of export obligation shall not be allowed.

3. Where the goods specified in the Table 1 are found defective or unfit for use, the said goods may be re-exported back to the foreign supplier within three years from date of clearance of said goods:

Provided that at the time of re-export, the goods are identified to the satisfaction of the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be, to be the same as the goods which were imported.

Explanation - For the purpose of this notification, -

(A) "Capital goods" has the same meaning as assigned to it in paragraph 11.08 of the Foreign Trade Policy;

(B) "Common Service Provider" (CSP) means a service provider who is designated or certified as a Common Service Provider by the DGFT - HQs, Department of Commerce in a Town of Export Excellence or Prime Minister Mega Integrated Textile Region and Apparel Parks (PM MITRA);

(C) "Export obligation", -

(I) means obligation on the importer to export to a place outside India, goods manufactured or capable of being manufactured or services rendered by the use of capital goods imported in terms of this notification and the export obligation shall be over and above the average level of exports achieved by the importer in the preceding three licensing years for the same and similar products within the overall export obligation period including the extended period, if any and such average shall be the arithmetic mean of export performance in the last three years for the same and similar products:

Provided that in case of export of goods relating to handicraft, handlooms, industries covered under Khadi and Village Industries Commission (KVIC), agriculture, aquaculture (including fisheries), pisciculture animal husbandry and dairying, floriculture and horticulture, poultry, viticulture, sericulture, carpets, coir and jute, the importer shall not be required to maintain the average level of exports:

Provided also that in case of export of goods relating to aquaculture (including fisheries), the importer shall not be required to maintain the average level of exports subject to the condition that EPCG authorisation has been obtained for goods other than fishing trawlers, boats, ships and other similar items:

Provided also that the goods, excepting tools, imported under this notification by the aforesaid sectors, shall not be allowed to be transferred for a period of five years from the date of imports even in cases where export obligation has been fulfilled:

Provided also that exports made to such countries as notified by Director General of Foreign Trade, shall not be counted for fixing the average level of exports:

Provided also that exports against only such shipping bills which mention the authorisation number and date of the authorisation shall be counted for the fulfillment of the export obligation:

Provided also that in the case of authorisation issued to a CSP, -

(i) the reference to 'importer' in this Explanation shall be taken to mean a reference to 'CSP and specific users whose details are informed prior to export by CSP to the Regional Authority';

(ii) for the exports by users of the common service to be counted towards fulfilment of export obligation of CSP, the respective shipping bills of the users of common service shall contain the authorisation details of the CSP and the concerned Regional Authority shall be informed about the details of the users prior to such export; and

(iii) the exports counted against the authorisation in terms of this notification shall not be counted towards fulfillment of specific export obligations against all other authorisations issued to the CSP or user under Chapter 5 of the Foreign Trade Policy

(II) shall be fulfilled through physical exports and the export proceeds realised in freely convertible currency or in Indian Rupees as are specified in para 5.04(I) of Foreign Trade Policy, however, in authorisations where

exemption from integrated tax and goods and services tax compensation cess is not availed, the following categories of supplies, shall also be counted towards fulfillment of export obligation, namely:-

(a) deemed exports, namely:-

- (i) supply of goods against Advance Authorisation or Advance Authorisation for annual requirement or Duty Free Import Authorisation;
- (ii) supply of goods to Export Oriented Units or Software Technology Parks or Electronics Hardware Technology Park or Bio-Technology Parks;
- (iii) supply of goods to projects financed by multilateral or bilateral Agencies or Funds as notified by Department of Economic Affairs (DEA), MoF, under International Competitive Bidding (ICB) in accordance with procedures of those Agencies or Funds where legal agreements provide for tender evaluation without including customs duty;
- (iv) 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 Department of Economic Affairs (DEA), MoF, under ICB in accordance with procedures of those Agencies or Funds where bids have been invited and evaluated on the basis of Delivered Duty Paid (DDP) prices for goods manufactured abroad;
- (v) supply of goods to any project or for any purpose in respect of which the Ministry of Finance by Customs Notification No. 50/2017-Customs dated the 30th June, 2017, permits import of such goods at zero basic customs duty subject to conditions specified in the said notification and the supply is made under procedure of ICB;
- (vi) supply of goods required for setting up of any mega power project, as specified in the list 31 at Sl. No. 598 of Department of Revenue Notification No. 50/2017-Customs dated the 30th June, 2017, provided such mega power project conforms to the threshold generation capacity specified in the said Notification and the supply shall be made under ICB procedure, however, ICB condition would not be mandatory if the requisite quantum of power has been tied up through tariff based competitive bidding or if the project has been awarded through tariff based competitive bidding;
- (vii) supply of goods for official use or to the projects funded by UN or International Organisation in terms of Notification No. 84/97-Customs dated the 11th November, 1997;
- (viii) supply of goods to nuclear power projects through National competitive bidding (NCB) or through ICB as provided in clause (g) of para 7.02 of Foreign Trade Policy;

(b) supply of Information Technology Agreement (ITA-1) items to Domestic Tariff Area, provided realisation is in free foreign exchange;

(c) royalty payments received in freely convertible currency and foreign exchange received for Research and Development (R&D) services;

(d) payments received in Rupee terms for such services as are specified in paragraph 5.04(k) of the Foreign Trade Policy; and

(e) export proceeds realised in India Rupees as are specified in paragraph 5.04(l) of the Foreign Trade Policy.

(D) "Foreign Trade Policy" means the Foreign Trade Policy, 2023, published by the Government of India in the Ministry of Commerce and Industry, *vide* notification No. 01/2023, dated the 31st March, 2023;

(E) "Handbook of Procedures" means the Handbook of Procedures, 2023 published by the Government of India in the Ministry of Commerce and Industry *vide* public notice No. 01/2023, dated the 1st April, 2023;

(F) "Manufacture" has the same meaning as defined in paragraph 11.31 of the Foreign Trade Policy;

(G) "Regional 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 an authorisation including a duty credit scrip under the said Act.

TABLE 1

S. No.	Description of goods
(1)	(2)
1.	Capital goods for pre-production, production and post-production
2.	Capital goods in Semi Knocked Down (SKD) / Completely Knocked Down (CKD) conditions to be assembled into capital goods by the importer
3.	Spare parts of goods specified at Serial Nos.1 and 2 as actually imported and required for maintenance of capital goods so imported, assembled, or manufactured
4.	Spare parts required for the existing plant and machinery of the importer

TABLE 2

S. No.	Port, ICD, LCS	Located at
1.	Seaports	Bedi (including Rozi-Jamnagar), Chennai, Cochin, Dahej, [Dhamra,Dharamtar, [Dighi, Gopalpur]] [Haldia (Haldia Dock complex of Kolkata port), Hazira (Surat)], Kakinada, Kandla, Kattupalli (Tamil Nadu), Kolkata, Krishnapatnam, Ennore (Tamil Nadu), Karaikal (Union territory of Puducherry), Magdalla, Mangalore, Marmugoa, Muldwarka, Mumbai, Mundra, Nagapattinam, Nhava Sheva, Okha, Paradeep, Pipavav, Porbander, Sikka, Tuticorin, Visakhapatnam and Vadinar.
2.	Airports	Ahmedabad, Bengaluru, Bhubaneswar, Calicut, Chennai, Cochin, Coimbatore, Dabolim (Goa), Delhi, Hyderabad, Indore, Jaipur, Kolkata, Lucknow (Amausi), Mumbai, Nagpur, Rajasansi (Amritsar), Srinagar, Trivandrum, Varanasi and Visakhapatnam.
3.	Inland Container Depots	Agra, Ahmedabad, Anaparthi (Andhra Pradesh), Melpakkam Village (Arakkonam Taluk, Vellore District), Babarpur, Bengaluru, Bhadohi, Bhatinda, Bhilwara, Bhiwadi, Bhusawal, Chettipalayam (Tamil Nadu), Chheharata (Amritsar), Coimbatore, Dadri, Dappar (Dera Bassi), Daulatabad (Wanjarwadi and Maliwada), Delhi, Dhannad Rau (District Indore), Dighi (Pune), Durgapur (Export Promotion Industrial Park), Faridabad, Garhi Harsaru, Gauhati, Guntur, Hosur (Tamil Nadu), Hyderabad, Irugur Village (Tamil Nadu), Irungattukottai (SIPCOT Industrial Park, Kattrambakkam Village, Sriperumbudur Taluk, Kanchipuram District, Tamil Nadu), Jaipur, Jalandhar, Jamshedpur, Jodhpur, Kanpur, Kalinganagar, Kanpur, Karur, Kheda (Pithampur, District Dhar), Kota, Kundli, Loni (District Ghaziabad), Ludhiana, Madurai, Malanpur, Mandideep (District Raisen), Marripalem Village(in Edlapadu Taluk of District Guntur), Miraj, Moradabad, Nagpur, Nasik, Nattakkam Village (Kottayam Taluk and District), Patli (Gurgaon), Pimpri (Pune), Pitampur (Indore), Pondicherry, Raipur, Rewari, Rudrapur (Nainital), Salem, Singanalur, Surat, Surajpur, Talegaon (District Pune), Thudiyalur (Tamil Nadu), Tirupur, Tondiarpet (TNPM) in Chennai, Tumb Village (Taluka Umbergoan, District Valsad), Tuticorin, Udaipur, Vadodara, Varanasi, Veerapandi (Tamil Nadu) and Waluj (Aurangabad).
4.	Land Customs Stations	Agartala, Amritsar Rail Cargo, Attari Road, Changrabandha, Dawki, Ghojadanga, Hilli, Jogbani, Mahadipur, Nepalganj Road, Nautanva (Sonauli), Petrapole, Ranaghat, Raxaul, Singhabad and Sutarkhandi.

[F. No. 605/10/2022-DBK]

(Dhananjay Singh)
Under Secretary.