



## CHAPTER 6

# **Export Oriented Units (EOUs), Electronics Hardware Technology Parks (EHTPs), Software Technology Parks (STPs) and Bio-Technology Parks (BTPs)**

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### **6.00 Scheme**

Policy relating to EOUs, EHTPs, STPs and BTPs Schemes is given in Chapter 6 of Foreign Trade Policy (FTP).

### **6.01 Application / Approval / Renewal of approval**

- (a) For setting up an EOU, three copies of application as in ANF 6A of Appendices & ANFs may be submitted to DC.
- (b) (i) Applications for setting up units under EOU scheme shall be approved or rejected by Units Approval Committee within 15 days, as per criteria indicated in Appendix 6A of Appendices & ANFs and sector specific conditions relating to approval as in Appendix 6B of Appendices & ANFs. In other cases, approval may be granted by DC after clearance by BOA.
- (ii) STP / EHTP complexes can be set up by Central Government, State Government, Public or Private Sector Undertakings or any combination thereof, duly approved by Inter-Ministerial Standing Committee (IMSC) in Ministry of Electronics & Information Technology-MeitY. Application for setting up EHTP / STP unit shall be in format prescribed by MeitY and shall be submitted to officer designated by MeitY.
- (iii) A BTP can be set up by Central Government, State Government, Public or Private Sector Undertakings or any combination thereof. Application for setting up of BTP shall be submitted to Department of Bio-Technology (DoBT) and such applications which meet guidelines prescribed by DoBT will be approved and recommended to DGFT for notification. Application for setting up of BTP unit shall be submitted to officer designated by DoBT.
- (c) On approval, a Letter of Permission (LoP) / Letter of Intent (LoI) shall be issued by DC / designated officer to EOU/ EHTP /

STP / BTP unit. LoP / LoI shall have an initial validity of 2 years to enable the Unit to construct the plant & install the machinery and by this time the unit should have commenced production. In case the unit is not able to commence production in the initial validity period of 2 years, an extension of one year may be given by the DC for valid reasons to be recorded in writing. Subsequent extension of one year may be given by the Unit Approval Committee subject to condition that two thirds of activities including construction, relating to the setting up of the Unit are completed and a Chartered Engineer's certificate to this effect is submitted by the Unit. Further extension, if necessary, will be granted by the Board of Approval. Once unit commences production, LoP / LoI issued shall be valid for a period of 5 years for its activities. This period may be extended further by DC for a period of upto 5 years at a time. However, in case of extension of LoP required for completing exit formalities, the LoP may be extended for a limited period i.e. less than 5 years by the DC.

- (d) Proposals for setting up an EOU requiring industrial licence may be granted approval by the concerned DC after clearance of proposal by BOA (as per Appendix 6C of Appendices & ANFs) and Department for Promotion of Industry and Internal Trade (DPIIT) within 45 days.
- (e) LoP / LoI shall specify item(s) of manufacture / service activity, annual capacity, projected annual export for first five years in dollar terms, Net Foreign Exchange (NFE) earnings, limitations, if any, regarding sale of finished goods, by-products and rejects in DTA and such other matter as may be necessary and also impose such conditions as may be required.
- (f) LoP / LoI issued to EOU / EHTP / STP / BTP units by concerned authority would be construed as an authorisation for all purposes. Standard format for LoP for EOU is given in Appendix 6D of Appendices & ANFs.
- (g) EOUs shall have separate earmarked premises for separate LoP. Similarly, EOUs may be approved on leased premises provided lease has been obtained from Government Department / Undertaking / Agency. However, in case lease is obtained from private parties, it shall have a validity period of five years from date of LUT and DC shall satisfy himself of genuine nature of lease.
- (h) On completion of validity of LOP/LOI as provided for in Paragraph 6.05 of FTP, it shall be open to unit to continue under

scheme or opt out of scheme. Where unit opts to continue, DC/Designated Officer will extend validity of the LOP/LOI. If no intimation in this regard is received from unit within a period of six months of expiry of the validity, DC/Designated Officer will, suo moto, take action to cancel approval under the scheme and take further action in this regard. Where units give their option to continue after expiry of six months as stipulated above, DC/Designated Officer will grant extension after obtaining approval of BOA/IMSC.

## **6.02 Legal Undertaking (LUT)**

- (a) Approved EOU / EHTP / STP / BTP unit shall execute an LUT with DC / Designated Officer concerned as in Appendix 6E of Appendices & ANFs.
- (b) All EOU / EHTP / STP / BTP units should have permanent e-mail address. No LUT for new units shall be executed unless unit has its permanent e-mail address and digital signature on said e-mail ID. In event of an EOU not having permanent e-mail address and digital signature, further imports and DTA sale shall not be permitted by DC.

## **6.03 Export of Goods and Services**

- (a) Software units may undertake exports using data communication links or in form of physical exports (which may be through courier service also), including export of professional services.
- (b) EOUs shall be permitted to export jewellery on basis of a notional rate certificate issued by nominated agency. This rate will be based on prevailing Gold / US\$ rate and US\$ / INR rate in notional rate certificate. Certificate issued by nominated agency should not be older than 7 working days of date of shipment.
- (c) Exporter shall have flexibility to fix price and repay gold loan within 180 days from date of export. Price shall be communicated to nominated agencies who will issue a certificate showing final confirmation of rate to bank negotiating document, to ensure export proceeds are realized at this rate.
- (d) Gems & Jewellery EOUs may re-export imported goods and export domestically procured goods, including goods generated out of partial processing/ manufacture. Besides, supply of unsuitable / broken cut and polished diamonds, precious and semi-precious stones upto 5% of value of imported or indigenously procured

goods to DTA against valid Gems & Jewellery REP as applicable on payment of appropriate duty is also permitted.

#### **6.04 Import / Domestic Procurement of Goods**

Goods permitted to be imported / procured from DTA shall include:

- (a) Raw materials, components, consumables, intermediates, spares and packing materials.
- (b) Capital goods and its spares, whether new or second-hand which inter-alia includes the following:
  - (i) Captive power plants (DG Sets, Wind Power, Solar Power), including transformers and accessories. This would be subject to the condition that no tax/duty benefits stipulated under EOU Scheme shall be available for setting up as well as operations and maintenance of such wind and solar power plants.
  - (ii) Pollution control equipment.
  - (iii) Quality assurance equipment.
  - (iv) Material handling equipment, like fork lifts and overhead cranes, mobile cranes, crawler cranes, hoists and stackers.
  - (v) Un-interrupted Power Supply System (UPS), Special racks for storage, storage systems, modular furniture, computer furniture, anti-static carpet, teleconference equipment, Servo Control System, Air- conditioners / Air conditioning system, panel for electricals and special data transmission cable.
  - (vi) Security Systems
  - (vii) Tools, jigs, fixtures, gauges, moulds, dyes, instruments and accessories.
- (c) Raw materials for making capital goods for use within unit.
- (d) Others including:
  - (i) Prototypes and technical samples for existing product(s) and product diversification development or evaluation.
  - (ii) Drawings, blue prints, charts, microfilms and technical data.
  - (iii) Office equipment, including PABX, Fax machines, projection system, Computers, Laptop and Server.

- (e) Spares and consumables for above items.
- (f) Any other items not mentioned above with approval of BOA.

## **6.05 Repair / Remaking of Jewellery**

EOUs may import plain / studded gold / platinum or silver jewellery for export after repairs /remaking.

## **6.06 Conditions of Import**

Import of goods by EOU / EHTP / STP / BTP units shall be subject to following conditions:

- (a) Goods shall be imported into EOU / EHTP / STP / BTP premises. However, agriculture and allied sectors and granite sector units in EOU may supply / transfer capital goods and inputs in farm / fields / quarries with prior intimation to jurisdictional Customs authorities, provided ownership of goods rests with EOUs. Granite sector would also be allowed to take spares upto 5% of value of Capital Goods to quarry site.
- (b) Procedure as prescribed under Customs/Central Excise rules for EOUs and units in EHTP / STP / BTP will be followed and appropriate bond executed with Customs/Central Excise Authorities.
- (c)
  - (i) The period of utilisation of goods, including capital goods, shall be co-terminus with the validity of LoP.
  - (ii) However, imported tea shall be utilized within a period of 6 months from date of import. Similarly, export obligation against import of items {covered by Chapter 9 of ITC(HS)} and coconut oil shall be fulfilled within a period of 90 days from the date on which first import consignment is cleared by Customs Authorities.
  - (iii) Further, in case of import of spices for VA purpose like crushing / grinding / sterilization or for manufacture of oils and oleoresins of pepper, cardamom and chillies (and not for simple cleaning, grading, re- packing etc.), EO shall be fulfilled within 120 days from the date of importation of first consignment. In case of import of spices (other than pepper, cardamom and chillies) for manufacture of spice oils and oleoresins, EO shall be fulfilled within 12 months.
- (d) Goods already imported / shipped / arrived before issue of LoP / LoI are also eligible for clearance as provided under para 6.01 (d)

- (ii) of FTP under EOU / EHTP / STP / BTP scheme without payment of duty and/or taxes as applicable, provided, the said duties and/or taxes has not been paid and goods have not been cleared from Customs.
- (e) Consumption of inputs by the EOU / EHTP / STP / BTP unit shall be based on the Standard Input Output Norms (SION) provided that:
  - (i) where no SION have been notified, generation of waste, scrap and remnants upto 2% of input quantity shall be allowed;
  - (ii) where additional items other than those given in SION are required as inputs or where generation of waste, scrap and remnants is beyond 2% of input quantity, use of such inputs shall be allowed by the jurisdictional DC within a period of three months from the date of application and based on self declared norms, with the unit undertaking to adjust self- declared / ad hoc norms in accordance with norms as finally fixed by Norms Committee in DGFT;
  - (iii) in case of any difficulty in fixation of SION as above, BOA in consultation with Norms Committee in DGFT, will decide on a case to case basis.

#### **6.07 Taking out of Fax Machines / Laptop / Computers outside approved premises**

- (a) EOU / EHTP / STP / BTP units may install one fax machine at a place of its choice, outside premises of unit, subject to intimation of its location to concerned Customs authorities.
- (b) EOU / EHTP / STP / BTP units may, temporarily take out of premises of unit, duty and/or tax free laptop / computers and video projection systems for working upon by authorized employees.
- (c) EOU / EHTP / STP / BTP units may install personal computers not exceeding two in number, imported / procured duty and/or tax free in their registered / administrative office subject to DoR guidelines.
- (d) For IT and IT enabled services, persons authorized by software units may access facility installed in EOU / EHTP / STP / BTP unit through communication links.

### **6.08 Facility of working from a place outside the unit**

Person(s) / employee(s) authorized by a unit of (i) IT related EOU or (ii) STP or (iii) EHTP or (iv) BTP may work from a place outside the said unit, subject to the following conditions:

- (i) There must be an Authorisation from the unit specifying the duration of such authorisation.
- (ii) The Unit shall be responsible for carrying out the work and supervision and shall be liable for any misuse.
- (iii) Export of the resultant products / services would take place only from the premises of the unit.

### **6.09 Leasing of Capital Goods**

Value of imported capital goods financed through leasing companies or obtained free of cost and / or on loan / lease basis, shall also be taken into account for purpose of calculation of NFE as defined in FTP.

### **6.10 Net Foreign Exchange (NFE) Earnings**

- (a) EOU / EHTP / STP / BTP unit shall be a positive net foreign exchange earner. NFE earnings shall be calculated cumulatively in the block period as per Paragraph 6.04 of FTP, according to the formula given below. Items of manufacture for export specified in LoP / LoI alone shall be taken into account for calculation of NFE.

Positive NFE =  $A - B > 0$

Where,

“NFE” is Net Foreign Exchange;

“A” is FOB value of exports by EOU / EHTP / STP / BTP unit and other supplies under para 6.08 of FTP;

“B” is sum total of CIF value of all imported inputs and CIF value of all imported capital goods, and value of all payments made in foreign exchange by way of commission, royalty, fees, dividends, interest on external borrowings / high sea sales during first five year period or any other charges. It will also include payment made in Indian Rupees on high sea sales; and

“Inputs” mean raw materials, intermediates, components,



consumables, parts and packing materials.

- (b) If any goods are obtained from another EOU / EHTP / STP / BTP / SEZ unit, or procured from an international exhibition held in India, or bonded warehouses or precious metals procured from nominated agencies, value of such goods shall be included under “B”.
- (c) If any capital goods are imported duty and/or tax free or leased from a leasing company, received free of cost and / or on loan basis or transfer, CIF value of capital goods shall be included pro-rata, under “B” for period it remains with units.
- (d) For annual calculation of NFE, value of imported capital goods and lump sum payment of foreign technical know-how fee shall be amortized as under: 1st- 10th year : 10%. Provided that above amortization rates would be applicable only if an undertaking is given by a unit that it will not exit to DTA in the first 10 years. For existing units, proportionate Customs and excise duty must be paid where NFE is less than depreciation already claimed, before exit.

## **6.11 Maintenance of Accounts**

- a) EOU / EHTP / STP / BTP unit shall maintain proper account, and shall file digitally signed quarterly and annual report as prescribed in Annexure to Appendix 6E of Appendices & ANFs to DC / Designated Officer in MeitY / DoBT and Customs and Central Excise authorities. In addition, STP unit shall file, every month, report of services classified in Annexure V of Appendix 6E of Appendices & ANFs in the ‘Service Exports Reporting Form (SERF)’ prescribed in Annexure VI of Appendix 6E of Appendices & ANFs to the designated officer in STP. Use of SERF would be limited to capturing information on services exports from STPs.
- b) Unit shall be able to account for entire quantity of each category of homogenous goods imported / procured duty and/or tax free, by way of exports, sales / supplies in DTA or transfer to other SEZ / EOU / EHTP / STP / BTP units and balance in stock. However, at no point of time, units shall be required to correlate every import consignment with its exports, transfer to other SEZ / EOU / EHTP / STP / BTP units, sales in DTA and balance in stock. Any matter for clarification as to whether goods are homogenous or not shall be decided by Units Approval Committee.

## **6.12 Monitoring of NFE**

Performance of EOUs shall be monitored by Units Approval Committee as per guidelines given in Appendix 6F of Appendices & ANFs. Performance of EHTP / STP / BTP shall be monitored by MeitY / DoBT jointly with jurisdictional Customs authority.

## **6.13 Conversion of Scrap / Dust / sweeping of Gold / Silver / Platinum into Standard Bars**

Scrap / dust / sweeping of gold / silver / platinum may be sent to Government of India Mint / private mint from EOU / EHTP / STP units and returned to them in standard bars in accordance with procedure prescribed by Customs authorities, or may be permitted to be sold in DTA on payment of applicable GST and compensation cess along with reversal of duties of Customs leviable under First Schedule of the Customs Tariff Act, 1975 availed as exemption on inputs, on basis of gold / silver / platinum content, as may be notified by Customs authorities.

## **6.14 DTA Supplies**

Notwithstanding provision of DTA sales in Paragraph 6.07 of FTP, such DTA sales shall not affect application, to any goods, of any other prohibition or regulation affecting import thereof in force at the time, when such goods are imported. This also does not confer any immunity, exemption or relaxation at any time from any commitment or compliance with any requirements to which importer may be subject to under other laws or regulations.

## **6.15 Supplies to other EOU / EHTP / STP / SEZ / BTP Units**

Supplies to other EOU / EHTP / STP / BTP / SEZ units shall be counted towards NFE provided that such goods are permissible for procurement by these units.

## **6.16 Transfer of Power from one Unit to another**

Transfer of power from Captive Power plants from one unit of EOU / EHTP / STP / BTP unit to another is permitted as prescribed in sector specific condition in Appendix 6B of Appendices & ANFs.

## **6.17 Supply of Precious / Semi-precious / Synthetic Stones from DTA**

Supplier of precious and semi-precious stones, synthetic stones and processed

pearls from DTA to EOUs shall be eligible for grant of Replenishment Authorisation at rates and for items mentioned in HBP. Procedure for submission of application for grant of Replenishment Authorisation as contained in relevant Chapter of HBP Vol. I shall be applicable. However, application shall be made to DC concerned. Such supplies to EOUs are not eligible for any of deemed export benefits under Chapter 7 of the FTP.

### **6.18 Application for grant of entitlements**

Application for grant of all entitlements may be made to DC/Designated Officer concerned.

### **6.19 Export through Other Exporters**

An EOU / EHTP / STP / BTP unit may export goods manufactured / software developed by it through other exporter, or any other EOU / EHTP / STP / BTP / SEZ unit subject to condition that:

- a) Goods shall be produced in EOU / EHTP / STP / BTP unit concerned.
- b) Level of NFE or any other conditions relating to imports and exports as prescribed shall continue to be discharged by EOU / EHTP / STP / BTP unit concerned.
- c) Export orders so procured shall be executed within parameters of EOU / EHTP / STP / BTP schemes and goods shall be directly transferred from unit to port of shipment.
- d) Fulfilment of NFE by EOU / EHTP / STP / BTP units in regard to such exports shall be reckoned on basis of price at which goods are supplied by EOUs to other exporter or other EOU / EHTP / STP / BTP / SEZ unit.
- e) All export entitlements, including recognition as Status Holder would accrue to exporter in whose name foreign exchange earnings are realized. However, such export shall be counted towards fulfilment of obligation under this scheme only.

### **6.20 Other Entitlements**

- a) FOB value of export of an EOU / EHTP / STP / BTP unit can be clubbed with FOB value of exports of its parent company in DTA or vice versa for the purpose of according Status Holder Certificate.
- b) Sectoral norms as notified by Government shall apply to FDI in service activities.

- c) STP Units / EHTP Units / Software EOUs may also use all duty and/or tax free equipment / goods for training purpose (including commercial training), subject to condition that no duty free equipment / goods shall be installed outside premises of the unit for this purpose.
- d) Export of iron ore shall be subject to decision of Government. Requirements of other conditions of exports like minimum export price / export in consumer pack etc. as per ITC (HS) shall apply in case raw materials are sourced from DTA and exported without further processing / manufacturing by EOU. Export of textile items shall be covered by bilateral agreements, wherever applicable. Wood based units shall comply with direction of Supreme Court contained in its order dated 12.12.1996 in Writ (civil) No 202 of 1995- T.N. Godavarman Thirrumulppad v/s Union of India and others with WP (Civil) No 171 of 1996 in regard to use of timber / other wood.

## **6.21 Sub-Contracting**

- a) Sub-contracting by EOU gems and jewellery units through other EOUs, or SEZ Units, or units in DTA shall be subject to following conditions:-
  - (i) Goods, finished or semi finished, including studded jewellery, taken out for sub-contracting shall be brought back to unit within 90 days. However, the Customs Authorities may grant an extension of time beyond 90 days in deserving cases.
  - (ii) No cut and polished diamonds, precious and semiprecious stones (except precious, semi- precious and synthetic stones having zero duty) shall be allowed to be taken out for sub- contracting.
  - (iii) Plain gold / silver / platinum jewellery can be received from DTA / EOU/ SEZ units in exchange of equivalent quantity of gold / silver / platinum, as the case may be, contained in said jewellery.
  - (iv) EOUs shall be eligible for wastage as applicable as per paragraph 4.59 of HBP for sub-contracting and against exchange.
  - (v) DTA unit undertaking job work or supplying jewellery against exchange of gold / silver / platinum shall not be entitled to deemed export benefits under Chapter 7 of FTP.

- b) Facility of getting job work done from DTA unit will be available subject to condition that goods are brought back to premises of unit on completion of job work.
- c) Export of finished goods from job worker's premises may be permitted, provided such premises are registered with Central Excise/GST authorities. Where job worker is SEZ / EOU / EHTP / STP / BTP unit, export may be effected either from job worker's premises or from premises of unit. Export of such products from job worker's premises shall not be allowed through third parties as provided in FTP.
- d) EOUs may be permitted to remove moulds, jigs, tools, fixtures, tackles, instruments, hangers and patterns and drawings to premises of sub-contractors, subject to condition that these shall be brought back to premises of units on completion of job work within a stipulated period. Raw materials may or may not be sent along with these goods.
- e) In case of sub-contracting of production process abroad, goods may be exported from sub-contractor premises subject to conditions that at the time of clearance of goods, the EOU / EHTP / BTP / STP unit shall declare
  - (i) the transaction value of the finished goods to be cleared from the sub- contractor's premises abroad;
  - (ii) job work charges to be paid to the sub-contractor abroad; and
  - (iii) value of intermediate goods;
 supported with documents like sale price contract / or invoice for the finished goods, job work contract and the basis of arriving at the value of intermediate goods. The EOU / EHTP / BTP / STP unit shall also ensure full repatriation of foreign exchange declared as the transaction value of the finished goods cleared from the sub-contractor's premises abroad.

## 6.22 Contract Farming

EOUs engaged in production / processing of agriculture / horticulture / aquaculture products may, on basis of annual permission from Customs authorities, take out inputs and equipments (specified in Appendix 6I of Appendices & ANFs) to DTA farm subject to following conditions:

- a) Supply of inputs by EOUs to contract farm(s) shall be subject to input-output norms approved by DGFT / BOA.
- b) There shall be contract farming agreement between EOU and DTA

farmer(s).

- c) Unit has been in existence for at least two years and engaged in export of agriculture / horticulture / aquaculture products; otherwise it shall furnish bank guarantee equivalent to duty and/or taxes foregone on capital goods / inputs proposed to be taken out, to Deputy / Assistant Commissioner of Customs, till unit completes two years.

### **6.23 Exports through Exhibitions / Export Promotion Tour**

EOU / EHTP / STP / BTP units may export goods for holding / participating in exhibitions abroad, with permission of DC, subject to following conditions:

- a) Unit shall produce to Customs authorities letter in original, or its certified copy containing approval of DC. For gems and jewellery items, a self certified photograph of products shall also be submitted.
- b) In case of re-import, such items, on arrival shall be verified along with export documents before clearance.
- c) Items not sold abroad shall be re-imported within 60 days of close of exhibition. However, in case exporter is participating in more than one exhibition within 45 days of close of first exhibition, then 60 days shall be counted from date of close of last exhibition. In case of exhibition in USA, the time period shall be 90 days instead of 60 days mentioned above.
- d) In case of personal carriage of goods and for holding / participating in overseas exhibitions, value of such gems and jewellery shall not exceed US \$ 5 million.

### **6.24 Personal Carriage of Gems and Jewellery as samples for Export Promotion Tours**

Personal carriage of gold / silver / platinum jewellery, cut and polished diamonds, precious, semi-precious stones, beads and articles as samples upto US \$ 1 million for export promotion tours, and temporary display / sale abroad by EOUs, is also permitted with approval of DC subject to following conditions:

- a) EOU shall bring back goods or repatriate sale proceeds within 45 days from date of departure through normal banking channel.
- b) Unit shall declare personal carriage of such samples to Customs while leaving country and obtain necessary endorsement.

## **6.25 Export through Show-rooms abroad / Duty free shops**

Export of goods is also permitted for display / sale in permitted shops set up abroad or in showrooms of their distributors / agents. Items not sold abroad within 180 days shall be re- imported within 45 days.

## **6.26 Sale through Showrooms / Retail outlets at International Airports**

EOUs may set up showrooms / retail outlets at International Airports for sale of goods in accordance with procedure laid down by Customs authorities. Items remaining unsold after a period of 60 days shall be exported or returned to respective EOUs.

## **6.27 Personal Carriage of Import / Export Parcels including through Foreign Bound Passengers**

- a) For Personal carriage of jewellery by foreign bound passenger, following documents shall be submitted by EOUs as proof of exports:
  - (i) Copy of shipping bill filed by EOUs;
  - (ii) A copy of Currency Declaration Form filed by Foreign buyer with Customs at time of his arrival; and
  - (iii) Foreign Exchange Realisation / Encashment Certificate from Bank.
- b) In addition to this, Personal Carriage by foreign bound passenger on Document Against Acceptance (DA) / Cash On Delivery (COD) basis is also allowed. EOUs will have to furnish following documents as proof of exports:-
  - (i) Copy of Shipping Bill;
  - (ii) Bank Certificate of Export and Realisation.
- c) Procedure for personal carriage of import parcels will be same as for import of goods by airfreight except that parcels shall be brought to Customs by EOUs / foreign national for examination and release. Instructions issued by Customs authorities in this regard should be followed mutatis mutandis.
- d) Personal carriage of parts by foreign bound passengers shall be allowed in case same are required for repairs of exported goods at



customer site. Following documents should be submitted as proof of exports:

- (i) Permission letter from Customs for exports.
- (ii) Invoice with value (for payment or free of charge).

## **6.28 Replacement / Repair of Imported / Indigenous Goods**

- a) Units may send capital goods abroad for repair with permission of Customs authorities. Any foreign exchange payment for this purpose will also be allowed. However, no permission will be required for sending capital goods for repair within country.
- b) EOU / EHTP / STP / BTP units may, on basis of records maintained by them and prior intimation to Customs authorities:
  - (i) Transfer goods to DTA / abroad for repair / replacement, testing or calibration and return.
  - (ii) Transfer goods for quality testing / R&D purpose to any recognised laboratory / institution upto Rs. 10 lakh per annum without payment of duty and/or taxes as applicable in such cases on giving suitable undertaking to Customs for return of goods. However, if goods have been consumed / destroyed in process of testing etc. a certificate from laboratory / institution to this effect be furnished to Customs.

## **6.29 Samples**

- a) EOU / EHTP / STP / BTP units may on basis of records maintained by them, and on prior intimation to Customs authority, supply or sell samples in DTA for display / market promotion on payment of excise duty, if applicable, and/or payment of GST and compensation cess alongwith reversal of duties of Customs leviable under First Schedule to the Customs Tariff Act, 1975, if availed on inputs.
- b) Remove samples without payment of duty and/or taxes on furnishing a suitable undertaking to Customs authorities for bringing back samples within a stipulated period.
- c) An EOU may export free samples, without any limit, including samples made in wax moulds, silver mould and rubber moulds through all permissible mode of export including through courier agencies / post. For statutory requirement of Stability & Retention sample with manufacturer, an EOU / EHTP / BTP / STP



unit may re-import with or without payment of duties/taxes as provided at para 6.01(d)(ii) of FTP those samples, which were exported by it, under intimation to Custom Authorities, and FOB value of such samples shall not be counted for NFE purpose and other export benefits, if any.

- d) An EOU, on basis of records maintained by them and on prior intimation to Customs authorities, may send samples to other EOUs for display on returnable basis within a period of 30 days.

### **6.30 Donation of Computer and Computer Peripherals**

EOU / EHTP / STP / BTP unit may be allowed by Customs authorities concerned to donate imported / indigenously procured (bought or taken on loan) computer and computer peripherals, including printer, plotter, scanner, monitor, keyboard and storage units without payment of duty other than applicable taxes under GST Law, two years after their import / procurement and use by units, to a school run by Central Government, or Government of a State, or a Union Territory, or a local body; an Educational Institution run on non-commercial basis by any organization; a Registered Charitable Hospital; a Public Library; a Public Funded Research and Development Establishment; a Community Information Center run by Central Government or, Government of a State or, a Union Territory or local body; an Adult Education Center run by Central Government or, Government of a State or, a Union Territory or a local body or, an organization of Central Government or, a Government of a State or, a Union Territory as per Customs / Central Excise notification.

### **6.31 Distinct Identity**

If an industrial enterprise is operating both as a domestic unit as well as an EOU / EHTP / STP/ BTP unit, it shall have two distinct identities with separate accounts, including separate bankaccounts. It is, however, not necessary for it to be a separate legal entity, but it should be possible to distinguish imports and exports or supplies effected by EOU / EHTP / STP / BTP units from those made by other units of enterprise.

### **6.32 Unit Approval Committee for EOUs**

- a) Composition of Unit Approval Committee shall be as under:
  - (i) Development Commissioner : Chairperson
  - (ii) Jurisdictional Commissioner of CBIC or nominee: member

- (iii) Joint DGFT or nominee: Member
- (iv) Joint / Deputy Development Commissioner of the Zone: Member
- (v) Any other nominee of any Department / Agency as special invitee.

(b) Powers and functions of Unit Approval Committee of EOUs shall be as under:

- (i) To consider applications for setting up EOUs. Items of manufacture requiring industrial licence under Industrial (Development & Regulation) Act, 1951 shall be considered by BOA.
- (ii) to consider and permit conversion of units in SEZ to EOU;
- (iii) to monitor performance of units;
- (iv) to supervise and monitor permission, clearances, licences granted to units and take appropriate action in accordance with law;
- (v) to call for information required to monitor performance of unit under permission, clearances, licenses granted to it;
- (vi) to perform any other function delegated by Central Government or its agencies;
- (vii) to perform any other function as may be delegated by State Governments or its agencies; and
- (viii) to grant all approvals and clearances for establishment and operation of EOUs

### **6.33 Approval of EHTP / STP / BTP Units**

In case of units under EHTP / STP scheme, necessary approval / permission shall be granted by officer designated by MeitY / Director (STPI). Designated officer shall also exercise powers of adjudication under Section 13 read with Section 11 of FT(D&R) Act, 1992, as amended, in respect of STP / EHTP as mentioned in Gazette Notification No. S.O. 106 (E) dated 30-1-2006. Similarly in case of units under BTP, necessary approval / permission shall be granted by officer designated by DoBT. However, designated officers shall adopt criteria for automatic approval of new units as laid down in Appendix 6A of Appendices & ANFs.

### **6.34 Powers of DC / Designated Officer**

DC / Designated Officer shall have following powers in respect to units. Jurisdiction of DC is given in Appendix 6J of Appendices & ANFs.

- a) Conversion of sick / closed DTA unit into EOU;
- b) Conversion of EOU to STP / EHTP / BTP and vice-versa as per prescribed procedure;
- c) To allow increase in value of capital goods in terms of Indian Rupees, on account of foreign exchange rate fluctuations;
- d) To permit capacity enhancement without any limit in case of delicensed industries only;
- e) Permit broad-banding for similar goods and activities mentioned in LoP or to provide for backward or forward linkages to existing line of manufacture;
- f) Authorize change in name of company or implementing agency and change from a company to another provided new implementing agency / company undertakes to take over assets and liabilities of existing unit;
- g) Permit change of location from place mentioned in LoP to another and / or include or exclude additional location/space provided that no change in other terms and conditions of approval is envisaged and that new location/space is within territorial jurisdiction of DC / Designated Office
- h) Extend validity period of LoP beyond initial validity period of LoP (except in case where there is a restriction on initial period of approval, like setting up of oil refinery projects) as per Paragraph 6.05 (a) of FTP;
- i) Cancel LoP wherever warranted;
- j) Permit merger of two or more units into one unit provided units fall within jurisdiction of same DC / Designated Officer subject to condition that activities are covered under provision of broad banding;
- k) Exercise powers of adjudication under Section 13 read with Section 11 of FT (D&R) Act, in respect of EOUs as mentioned in

Gazette Notification No. SO.194(E) dated 6.3.2000;

- l) Do valuation of exports declared on SOFTTEX form by EOUs as per RBI A.D. (M.A Series) Circular AP (DIR series Circular No.9 dated 25.10.2001);
- m) Issue eligibility certificates for grant of employment visa to low level foreign technicians to be engaged by EOUs as per Ministry of Home Affairs letter No. 25022/7/99-F.1 dated 20.9.1999;
- n) Registration-cum-Membership Certificate Function as a Registering authority for EOU / EHTP / STP / BTP unit. A separate Registration-cum-Membership Certificate shall not be required in their cases as provided for in Paragraph 2.56 of FTP ;
- o) Green Card Issue of Green Card automatically after execution of LUT;
- p) Grant / renewal of Status Certificate in respect of EOUs provided it does not involve clubbing of FOB value of exports of its parent company in DTA;
- q) Publicity of EOU / EHTP / STP / BTP Scheme under their jurisdiction.
- r) Exit from EOU/EHTP/STP/BTP Scheme (including grant of 'in-principle' exitletter as per Appendix 6K).

### **6.35 Change of Location / Inclusion of Additional Location with BOA Approval**

BOA may consider change of location of EOU / EHTP / STP / BTP unit from place mentioned in LoP to another and / or to include additional location outside territorial jurisdiction of original DC / Designated Officer, subject to such conditions as BOA may decide.

### **6.36 Clearance of Capital Goods in DTA**

Clearance of capital goods, including second hand, in DTA shall be allowed as per para 6.14(b) of FTP and import policy in force on date of such clearance.

### **6.37 Depreciation Norms**

Depreciation up to 100% is permissible for Computers and Computer

peripherals in 5 years and 10 years in case of other items.

(a) Depreciation Norms for Computers and Computer Peripherals:

Depreciation for computers and computer peripherals shall be as follows.

10% for every quarter in first year;

8% for every quarter in second year;

5% for every quarter in third year;

1% for every quarter in fourth and fifth year.

(b) Depreciation Norms for Other Capital Goods:

For capital goods, other than above, depreciation rate would be as follows:

4% for every quarter in first year;

3% for every quarter in second and third year;

2.5% for every quarter in fourth and fifth year;

2% for every quarter thereafter.

### 6.38 Conversion

- a) Existing DTA units, may also apply for conversion into an EOU /EHTP / STP / BTP unit, but no concession in duties and taxes would be available under scheme for plant, machinery and equipment already installed. For this purpose, DTA unit may apply to DC / Designated Officer concerned in same manner as applicable to new units. In case there is an outstanding export commitment under Advance Authorisation Scheme, it will follow the procedure laid down in Appendix 6M of Appendices & ANFs. In case DTA unit has taken EPCG authorisation, the conversion would be permitted only if either the unit has fulfilled the stipulated Export obligation and obtained EODC or has made payment of applicable duties and taxes and compensation cess on capital goods imported under the EPCG Scheme.
- b) Existing EHTP / STP / BTP units may also apply for conversion / merger to EOU unit and vice-versa. In such cases, units will continue to avail permissible exemption in duties and taxes as applicable under relevant scheme. EHTP / STP/ BTP units desiring conversion as an EOU may apply to DC concerned through Officer designated by MeitY / DoBT in same manner as

applicable to new units. Likewise, EOU desiring conversion into EHTP / STP / BTP may apply to officer designated by MeitY / DoBT through DC concerned.

- c) An EOU may be shifted to SEZ with approval of DC provided EOU has achieved pro-rata obligation under EOU scheme.

### **6.39 Fast Track Clearance Procedure**

- a) Eligibility: EOUs having a status holder certificate under FTP shall be eligible for Fast Track Clearance Procedure.
- b) Examination of Import Cargo: Status holder units shall be exempted from examination of import cargo at port of import. However, jurisdictional Commissioner of Customs may examine consignments at unit's place on random basis.
- c) Installation of Computers: Eligible EOUs may install two computers in their administrative / registered office outside premises of the unit under prior intimation to jurisdictional Asstt. / Deputy Commissioner of Customs.
- d) Procurement of DG sets: Procurement of DG set of capacity commensurate with actual requirement of unit shall be permitted under intimation to DC and jurisdictional Customs authority.
- e) Temporary removal of Capital Goods: Eligible EOU may remove their capital goods or parts thereof for repairs under prior intimation to jurisdictional Asstt. / Deputy Commissioner of Customs or Central Excise.
- f) Personal carriage of samples: Personal carriage of samples of Gems & Jewellery by status holder EOUs are allowed subject to limit fixed in Paragraph 6.24 without a need for prior permission from DC / Customs.
- g) Activities which do not require permission: In respect of following activities of a status holder, permission will not be required from DC or jurisdictional Central Excise/Customs authority: DTA sale of finished products in terms of Paragraph 6.07(a) of FTP; Participation in exhibition and Personal carriage of Gems & Jewellery for export promotion tours subject to fulfilment of conditions of Paragraph 6.23 of HBP. However, prior intimation thereof needs to be given.

### **6.40 Time Bound Disposal of Applications**

DC shall dispose of applications expeditiously. Following time schedule shall

normally be followed to dispose of applications provided application is complete in all respects and is accompanied with prescribed documents.

S. No.	Category of Application	Time limit for disposal (days)
1	Issue of LoP / LoI	15
2	Conversion of LoP / LoI	15
3	Acceptance of LUT	3
4	Renewal of LUT	3
5	Permission for broad banding / Diversification	3
6	Permission for change in locations	7
7	Permission for Advance DTA sale	2
8	Permission for merger of units	7
9	Permission for enhancement of production capacity	3
10	Cancellation of LoP	3
11	Permission for debonding / exit	7
12	Permission for DTA sale	2
13	Eligibility certificate for employment visa for lower level technicians	2
14	Issue of Green Card	2
15	Renewal of Green Card	Same Day
16	Permission to lease CG	1
17	Permission for disposal of scrap / waste	2
18	Permission for change in name	2
19	Inter Unit Transfer	2
20	Wastage Norms, ad-hoc	2
21	Permission for re-import	Same day
22	Permission for re-export	Same day
23	Permission for replacement / repair of goods	Same day
24	Authorisation of softex form	1
25	Reimbursement of CST claims	7
26	Issue of GSP Certificate	Same day
27	Permission for conversion of EOU to STPI/EPCG	5
28	Permission of final exit of EOU	5
29	Permission of extension of EOU	2
30	Permission to allow increase in value of CG	2

31	Permission for export through exhibition / tour	2
32	Reimbursement of Duty Drawback / TED	7



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## CHAPTER 7

# **Deemed Exports**

# Chapter-7

## Deemed Exports

### 7.00 Policy

Policy relating to Deemed Exports is given in Chapter 7 of FTP.

### 7.01 Procedure for claiming Benefits

- (a) Supplier / Recipient of goods shall submit application for claiming deemed export benefits, in ANF-7A, along with the documents prescribed therein, to the concerned RA.
- (b) In case of supply of goods to an EOU, claim shall be filed with the concerned Development Commissioner. A DTA Unit shall claim benefits from the concerned RA.

### 7.02 Criteria for claiming Benefits

- (a)
  - (i) In respect of supply of intermediate goods to Advance Authorisation / DFIA holder, against Invalidation Letter, issued in terms of Paragraph 4.13 of HBP, application to obtain Advance Authorisation for import of duty free inputs, as provided under Chapter 4 of FTP, shall be made as per procedures given in Chapter 4 of HBP. For supplies against invalidation letter, TED refund shall be given in accordance with para 7.03(c) of FTP, provided, there is no exemption.
  - (ii) In respect of supply of goods to Advance Authorisation / DFIA, against ARO, procedure given in Chapter 4 of the HBP shall be followed. TED refund for supplies against ARO shall be allowed in accordance with para 7.03(c) of FTP, provided, there is no exemption. Duty Drawback shall be allowed in accordance with para 7.06 of FTP.
- (b) In respect of supply of goods to EOU / EHTP / STP / BTP, Advance Authorisation / DFIA can be obtained as per procedure given in the Chapter 4 of HBP for exemption from payment of Terminal Excise Duty, procedure as per Excise Circular number 851/9/2007-CX dated 3.5.2007 read with circular No. 10/2009- Cus dated 25.2.2009, shall be followed for removal of goods against CT-3. TED refund shall be given for supply of goods to EOU / EHTP / STP / BTP in accordance with para 7.03(c) of FTP, provided, there is no exemption. In case Advance Authorisation, as

provided in Chapter 4 of FTP, is not obtained for import of duty free inputs against such supply, drawback claim for basic custom duty paid on inputs, used in the resultant product, shall be filed with the DC concerned. A DTA Unit shall claim benefits from the concerned RA.

(c) In respect of supply of goods to an EPCG Authorisation holder, against Invalidation Letter, application for Advance Authorisation / DFIA shall be made as per procedures given in Chapter 4 of HBP. If Advance Authorisation / DFIA is not obtained for duty free inputs, Duty drawback shall be allowed on basic custom duty paid on inputs used in the resultant product.

(d) In respect of supply of goods to other categories as listed in the Paragraph 7.02 (d), (e), (f) & (g) of FTP, Advance Authorisation / DFIA for import of duty free inputs as provided under Chapter 4 of FTP may be obtained against Project Authority Certificate as per Appendix-7C. However, if Advance Authorisation / DFIA is not obtained against such supplies for duty free inputs as provided in Chapter 4 of FTP, claim for duty drawback for basic custom duty may be filed as per ANF-7A. TED refund for projects mentioned in para 7.08(iii)(a) of FTP in respect of eligible items of supply covered under schedule IV of Central Excise Act, 1944, shall be available provided there is no exemption.

### **7.03 Eligibility criteria for claiming TED / Drawback**

(a) Application can be filed either by supplier or by recipient of goods, having IEC Number.

(b) Application can be made by Registered office / Head office or Manufacturing unit.

(c) In case supplier files claim for TED refund, it shall obtain a certificate for non- availment of CENVAT credit from the recipient of goods as per Annexure-I to ANF-7A and submit the same. In case recipient of goods is an applicant, then the applicant itself shall submit such certificate.

(d) In case recipient unit files claim for TED / Duty Drawback, disclaimer certificate as prescribed in the Annexure-III to ANF-7A shall be obtained from supplier and shall be submitted along with the application. In case supplier of the goods is an applicant then the disclaimer certificate from the recipient of the goods shall be submitted.

(e) Claim can be filed only after payment is received in full, to the extent of supplies made.

(f) Claim can be filed against payment received through normal banking channel, as per e-BRC. In other words, supply documents have to be negotiated through bank only. In respect of supplies covered under Paragraph 7.02 (d) to (g) of the FTP, payment certificate issued by Project Authority, in Appendix-7D, has also to be submitted.

(g) Sub-contractor can also file claim provided its name is endorsed in the Project Authority Certificate / Contract before supply of such goods.

#### **7.04 Procedure for claiming TED refund on Fuel**

For supply of High Speed Diesel (HSD) from Depots of domestic oil Public Sector Undertakings under Paragraph 7.02(b) of FTP, terminal excise duty shall be refunded on the basis of duty paid certificate issued by concerned domestic oil Public Sector Undertaking in the format given in Annexure-IV to ANF-7A. Duty refund will be allowed for quantity of HSD procured by EOU / EHTP / STP / BTP unit for its production activities, as certified by concerned DC / Bond authorities.

#### **7.05 Frequency of application and time period for claiming TED / Drawback**

(a) In respect of supplies covered in Paragraphs 7.02 (a) to (c) of FTP, application for TED refund / drawback (whichever applicable) may be filed within 12 months from the date of realisation of 100% payment against such supplies. In cases where payment is received in advance and supply is made subsequently, in such cases application can be filed within 12 months from the last date of such supplies. Claim can be filed 'Invalidation Letter / ARO wise' against individual Authorisation within the time limit as specified above.

(b) In respect of supplies covered in Paragraphs 7.02 (d) to (g) of FTP, claim may be filed either on the basis of proof of supplies effected or payment received. Claims should be filed within a period of twelve months from date of receipt of supplies by project authority or from date of receipt of the payment by supplier as per the option of applicant, either against a particular project or all the projects. Claims may also be filed where part payments have been received. Deemed export benefits may be allowed after 100% supplies have been made. However, benefit will be limited to the extent of payment received.

#### **7.06 Rate of Drawback**

Normally drawback may be allowed as per All Industry Rate fixed by DoR in the Drawback Schedule where no CENVAT credit has been availed by supplier of

goods. However, an application in ANF-7A, along with documents prescribed in ANF-7A & Appendix-7E, may be made to RA or DC concerned, as the case may be, for fixation of brand rate where All Industry Rate of Drawback is not available or same is less than 4/5th of duties actually paid on raw materials or components used in the production or manufacture of the said goods.

#### **7.07 Time barred / supplementary claim**

In case claim is filed after prescribed time period, provision of late cut, under Paragraph 11.02 of HBP and provision of supplementary claim under Paragraph 11.03 of HBP shall be applicable.

#### **7.08 Exemption from payment of TED**

For claiming exemption from payment of terminal excise duty, wherever applicable, procedure prescribed by Central Excise Authority shall be followed.

#### **7.09 Applicability of other Rules**

Subject to procedure laid down in HBP, Customs and Central Excise Duties and Service Tax Drawback Rules, 1995 or Customs and Central Excise Duties Drawback Rules, 2017, as the case may be, shall apply mutatis mutandis to deemed exports scheme.

#### **7.10 Payment of interest**

(a) RA shall make payment within 30 days from the date of issuance of Approval Letter. In case payment is not made within the time period as given above, then RA shall add interest component, along with principal amount, in accordance with paragraph 7.09 of the FTP. No separate application for claiming interest is required to be made. A single mandate shall be issued to the bank for principal amount and interest.

(b) If interest is not added by RA/DC, a separate application, as per ANF-7B may be filed, within 30 days from the date of receipt of principal amount. No interest shall be paid thereafter. RA shall maintain separate account for disbursement of principal amount and interest for accounting purpose.

(c) RA shall submit a monthly report regarding disbursement of deemed exports claims, in the proforma as given in Appendix-7F. Wherever interest is paid, RA shall inform the reason for payment of interest.

### **7.11 Internal Audit Mechanism**

The zonal offices of Additional DGFT shall constitute Audit team in their offices as per paragraph 7.10 of FTP and shall carry out post Audit.