

CA - Final  
CMA - Final  
CS - Professional



**V'Smart  
Academy**

# CA FINAL CUSTOM AMENDMENTS



**Applicable for May 2019 Examination**

**By : CA Vishal Bhattad**

- All Circulars & Notifications upto 31st Oct 2018
- All Statutory Updates of ICAI

# Introduction & Levy of Customs duty

Amendments by F.A. 2018 & Rule, Circulars & notification upto 31-10-2018

Amendment in Existing Provision

### ASSESSMENT Amended by F.A.2018

**Section 2(2) Assessment** means determination of the dutiability of any goods and the amount of duty, tax, cess or any other sum so payable, if any, under this Act or under the Customs Tariff Act, 1975 or under any other law for the time being in force, with reference to—

- (a) the tariff classification of such goods as determined in accordance with the provisions of the Customs Tariff Act
- (b) the value of such goods as determined in accordance with the provisions of this Act and the Customs Tariff Act
- (c) exemption or concession of duty, tax, cess or any other sum, consequent upon any notification issued therefor under this Act or under the Customs Tariff Act or under any other law for the time being in force
- (d) the quantity, weight, volume, measurement or other specifics where such duty, tax, cess or any other sum is leviable on the basis of the quantity, weight, volume, measurement or other specifics of such goods
- (e) the origin of such goods determined in accordance with the provisions of the Customs Tariff Act or the rules made thereunder, if the amount of duty, tax, cess or any other sum is affected by the origin of such goods
- (f) any other specific factor which affects the duty, tax, cess or any other sum payable on such goods,  
and includes provisional assessment, self-assessment, re-assessment and any assessment in which the duty assessed is nil

## Chapter 2

# Importation & Exportation Procedure

Amendments by F.A. 2018 & Rule, Circulars & notification upto 31-10-2018

### Amendment in existing Provision

#### SECTION 30: DELIVERY OF ARRIVAL MANIFEST OR IMPORT MANIFEST OR IMPORT REPORT

#### SECTION 41: DELIVERY OF DEPARTURE MANIFEST OR EXPORT MANIFEST OR EXPORT REPORT.

The person-in-charge of a conveyance carrying export goods or imported goods shall, before departure of the conveyance from a customs station, deliver to the proper officer

- i. In the case of a vessel or aircraft - an export manifest or departure manifest and
- ii In the case of a vehicle - an export report

Such form and manner as may be prescribed and in the case the person-in-charge fails to deliver the departure manifest or export manifest or export report or any part thereof within such time, and the proper officer is satisfied that there is no sufficient cause for such delay, such person-in-charge shall be liable to pay penalty not exceeding fifty thousand rupees.

Provided that principle Commissioner of Custom or Commissioner of Custom may in cases where it is not feasible to deliver the departure manifest or export manifest or export report by presenting electronically allow the same to be delivered in any other manner.

Person delivering the departure manifest or export manifest or export report shall act the foot thereof make and subscribe to a declaration as to the truth of its contents.

Amendment by F.A. 2018

Students  
Comments



#### Section 45 Restriction on custody and removal of imported goods

All imported goods unloaded in a customs area shall remain in the custody Port trust Authority / Airport authority as may be approved by the Commissioner of Customs until they are cleared for home consumption or are warehouse.

The person having custody of any imported goods in a customs area,

- Shall keep a record of such goods and send a copy thereof to the proper officer or in such manner as may be prescribed; Newly Inserted by F.A.2018
- Shall not permit such goods to be removed from the customs area without permission of officer.
- In case of pilferage PTA is liable for payment of duty at the Rate applicable on date of filling manifest.

Students  
Comments



## Section 46 : Entry of goods on Importation

1. **Meaning** : Importer must submit E-Bill of Entry for clearance of goods for home consumption or warehousing

2. **Types of Bill Of Entry**: There are three types of B/E prescribed by regulation

B/E U/s 46	1) Bill of Entry for Home Consumption 2) Bill of Entry for warehousing (into-Bond)
B/E U/s 68	Bill of Entry for Home Consumption to warehouse (Ex-bond)

3. **Documents** : A bill of entry shall include all the goods mentioned in the bill of lading or other receipt given by the carrier to the consignor.

4. **Incomplete Bill of Entry**: In case of incomplete B/E on request of importer officer may give permission for warehousing without warehousing.

5. **Time Limit**: *The importer shall present the bill of entry before the end of the next day following the day (excluding holidays) on which the aircraft or vessel or vehicle carrying the goods arrives at a customs station at which such goods are to be cleared for home consumption or warehousing*

6. **Prior B/E**: Prior B/E allowed before IGM but vessel or aircraft must arrived within 30 days.

7. **Conversion of Bill of Entry**: Conversion from home consumption to warehousing and vice-versa if no fraudulent intention and revenue of Central Govt. not prejudicially affected.

8. **DECLARATION / VERIFICATION** : *The importer while presenting a bill of entry shall-  
(a) make and subscribe to a declaration as to the truth of contents of such bill of entry and  
(b) shall, in support of such declaration, produce to proper officer [i.e., "Superintendent/ Appraiser" or higher authority] the invoice, if any, and such other documents relating to the imported goods as may be prescribed.*

Newly Inserted by F.A.2018

9. **THE IMPORTER WHO PRESENT A BILL OF ENTRY SHALL ENSURE THE FOLLOWING, NAMELY:**

(a) *the accuracy and completeness of the information given therein*  
(b) *the authenticity and validity of any document supporting it; and*  
(c) *compliance with the restriction or prohibition, if any, relating to the goods under this Act or under any other law for the time being in force.*

Newly Inserted by F.A.2018



## Section 47 : Clearance of goods for Home Consumption

Where the proper officer is satisfied that

- any goods entered for home consumption are not prohibited goods and
- the importer has paid the import duty, if any, assessed thereon and any charges payable under

this Act in respect of the same,

the proper officer may make an order permitting clearance of the goods for home consumption.

*Provided that such order may also be made electronically through the customs automated system on the basis of risk evaluation through appropriate selection criteria* **Newly Inserted by F.A.2018**

*"Provided that the Central Government may, by notification in the Official Gazette, permit certain class of importers to make deferred payment of said duty or any charges in such manner as may be provided by rules.*

*The importer shall pay the import duty—*

a) In case of self assessment or	On the date of presentation of duty
b) In case of assessment, re-assessment or provisional assessment or	within one day (excluding holiday) from the date on which bill of entry refunded to him by proper officer for payment of duty
c) In case deferred payment in notified cases	on such due dates as may be specified by rules.

*and if he fails to pay the duty within the time so specified, he shall pay interest @ 15% on the duty not paid or short-paid till the date of its payment.*



## Section 50 : Entry of goods for Exportation (Shipping Bill or Bill of Export)

1) The exporter of any goods shall make entry thereof by presenting on custom automated system

2) **In the case of goods to be exported in a vessel or aircraft - a shipping bill and**  
**In the case of goods to be exported by land - a bill of export**

3) A Shipping Bill is filed only after an entry outward.

*The exporter who presents a shipping bill or bill of export under this section shall ensure the following namely-*

(a) *the accuracy and completeness of the information given therein*  
(b) *the authenticity and validity of any document supporting it; and*  
(c) *compliance with the restriction or prohibition, if any, relating to the goods under this Act or under any other law for the time being in force*

**Newly Inserted by F.A.2018**



## Section 51 : Clearance of Goods for Exportation

Where the proper officer is satisfied that any goods entered for export are not prohibited goods and the exporter has paid the duty, if any, assessed thereon and any charges payable under this Act in respect of the same,

the proper officer may make an order permitting clearance and loading of the goods for exportation (also called **Let Export Order**).

**Classes of Importer notified by C.G. can make deferred payment of Duty and other charges as prescribed in Rules.**

*Provided that such order may also be made electronically through the customs automated system on the basis of risk evaluation through appropriate selection criteria.*

Newly Inserted by F.A.2018

Where the exporter fails to pay the export duty, either in full or in part, under the proviso to sub-section (1) by such due time as may be specified by rules, he shall pay interest on said duty not paid or short-paid till the date of its payment at 15% p.a.



Newly inserted Section

## SECTION 51A: PAYMENT OF DUTY, INTEREST, PENALTY, ETC.

- (1) Every deposit made towards duty, interest, penalty, fee or any other sum payable by a person under the provisions of this Act or under the Customs Tariff Act, 1975 or under any other law for the time being in force or the rules and regulations made thereunder, using authorised mode of payment shall, subject to such conditions and restrictions, be credited to the electronic cash ledger of such person, to be maintained in such manner, as may be prescribed.
- (2) The amount available in the electronic cash ledger may be used for making any payment towards duty, interest, penalty, fees or any other sum payable under the provisions of this Act or under the Customs Tariff Act, 1975 or under any other law for the time being in force or the rules and regulations made thereunder in such manner and subject to such conditions and within such time as may be prescribed.
- (3) The balance in the electronic cash ledger, after payment of duty, interest, penalty, fee or any other amount payable may be refunded in such manner as may be prescribed.
- (4) Notwithstanding anything contained in this section, if the Board is satisfied that it is necessary or expedient so to do, it may, by notification, exempt the deposits made by such class of persons or with respect to such categories of goods, as may be specified in the notification, from all or any of the provision of this section



## Chapter 3

# Date for Determination of Assessment Duty Rate & Tariff Value, Exchange Rate

Amendments by F.A. 2018 & Rule, Circulars & notification upto 31-10-2018

### Amendment in existing Provision

#### SEC 17 SELF ASSESSMENT & RE -ASSESSMENT

##### (a) Duty to be self-assessed by the importer/exporter

An importer in his Bill of entry, or an exporter entering any export in his shipping bill or Bill of Export, self-assess the duty, if any, leviable on such goods.

##### (b) Verification by proper officer

**Amendment by F.A. 2018** *The purpose of Verification, the proper officer may require the importer, exporter or any other person to produce any document or information, whereby the duty leviable on the imported goods or export goods, as the case may be, can be ascertained and thereupon, the importer, exporter or such other person shall produce such document or furnish such information.*

##### (c) Reassessment of duty by the proper officer if self-assessment not done correctly

Where it is found on verification, examination or testing of the goods or otherwise that the self-assessment is not done correctly, the proper officer may, re-assess the duty leviable on such goods.

##### (d) Speaking order for re-assessment to be passed unless the importer agrees with the reassessment

Where any re-assessment done is contrary to the self-assessment done by the importer or exporter.

- 1) If Importer/Exporter accept reassessment in writing – **No speaking order by officer**
- 2) If Importer/Exporter not accept reassessment in writing - **Speaking order within 5 days**

##### (e) Audit at custom office / premises of importer or exporter

**OMITTED by F.A.2018**

Where re-assessment has not been done or a speaking order has not been passed on re-assessment, the proper officer may audit the assessment of duty of the imported goods or export goods at his office or at the premises of the importer or exporter, as may be expedient, in such manner as may be prescribed.

Students  
Comments

#### SEC 18 PROVISIONAL ASSESSMENT

##### (1) Cases of Provisional Assessment

- (1) In following cases provisional assessment shall be done
  - (a) where the importer or exporter is **unable to make self-assessment** and makes a request in writing to the proper officer for assessment; or
  - (b) where the proper officer deems it necessary to subject any imported goods or export goods to any **chemical or other test**; or
  - (c) where the importer or exporter has produced all the necessary documents and furnished full information but the proper officer deems it necessary **to make further enquiry; or**
  - (d) where necessary documents have not been produced or information has not been furnished and the proper officer deems it necessary to make further enquiry, the proper officer may direct for provisional assessment on security given by Importer or exporter.

*(1A) Where, pursuant to the provisional assessment under sub-section(1), if any document of information is required by the proper officer for final assessment, the importer or exporter, as the case may be, shall submit such document or information within such time, and the proper officer shall finalise the provisional assessment within such time and in such manner, as may be prescribed.*

**Newly Inserted by F.A.2018**

##### 2)Final Assessment

FAD > PAD	Differential Amount Payable	Interest 18% p.a. on differential Amount from the first day of the month in which the duty is provisionally assessed till the date of payment there of.
FAD < PAD	Refund	Interest 6% p.a.

Students  
Comments



## Notification

### CUSTOM FINALISATION OF PROVISIONAL ASSESSMENT (Regulation, 2018) (N/n 73/2018-Custom (N.T.))

**Application :** These regulation shall apply to the provisional assessments ordered on and after the enforcement of these regulations.

**Time Limit and manner for submission of documents or information for the purpose of finalisation of provisional assessment :** a) the necessary documents have not been produced or information has been furnished by the importer or the exporter; or

b) the proper officer requires the importer or the exporter to produce any additional documents or information, then the necessary document required for final assessment to be submitted within 1 month of order of provisional assessment or date of such requisition by proper officer.

2) Proper officer shall within 15 days in writing specify the details of the information to be furnished.

**3) Extend :**

a) Proper officer -	further upto 3 months
b) Additional commissioner or Joint Commissioner -	extend another by 3 months
c) Commissioner of Custom -	extend the time period further as demanded

**Note:- Bill of entry/shipping bill that has been assessed provisionally shall be treated separate case of provisional assessment**

**4) Time Limit for finalisation of provisional assessment :** within 2 months after receipt of all information or carrying chemical or other test or investigation.

The Commissioner of Customs concerned may allow extension, for reasons to be recorded in writing, a further time period of three months.

5) If duty payable in final assessment is more than provisional assessment than deficient amount adjusted against security given with bond.

**6) Penalty :** If any importer or exporter or his authorised representative or Customs Broker contravenes any provision of these regulations or abets such contravention, or fails to comply with any provision of these regulations, he shall be liable to a penalty which may extend to fifty thousand rupees.

### Newly inserted by F.A. 2018

### ACD 3(7) to countervail levy of GST (Important)

- (7) Any article which is imported into India shall, in addition,  
 ➔ be liable to **integrated tax**  
 ➔ **at such rate**, not exceeding forty per cent.  
 ➔ as is leviable under **section 5 of the Integrated Goods and Services Tax Act, 2017** on a like article on its supply in India,  
 ➔ **on the value** of the imported article as determined under sub-section (8). **or Sub Section (8A), as the case may be** **Newly Inserted by F.A.2018**

### Valuation for ACD 3(7)

- (8) For the purposes of calculating the integrated tax under sub-section (7) on any imported article where such tax is leviable at any percentage of its value, **the value of the imported article shall, notwithstanding anything contained in section 14 of the Customs Act, 1962, be the aggregate of—**  
 (a) the **value of the imported article** determined under sub-section (1) of section 14 of the Customs Act, 1962 or the **tariff value** of such article fixed under sub-section (2) of that section, as the case may be; and  
 (b) any duty of customs chargeable on that article under section 12 of the Customs Act, 1962 (BCD), and any sum chargeable on that article under any law for the time being in force as an addition to, and in the same manner as, a duty of customs, **but does not include**  
 ➔ the tax referred to in sub-section (7) or  
 ➔ the cess referred to in sub-section (9).

### (8A) ACD on Warehouse Sale before clearance **Newly Inserted by F.A.2018**

Where the goods deposited in a warehouse are sold to any person before clearance for home consumption or export the value of such goods under subsection (7) shall be,—

- (a) **where the whole of the goods are sold-**  
 the value determined under sub-section (8) or  
 the transaction value of such goods, whichever is higher;

OR

- (b) **where any part of the goods is sold,**  
 the proportionate value of such goods as determined under sub-section (8) or  
 the transaction value of such goods, whichever is higher:

Provided that where the whole of the warehoused goods or any part thereof are sold more than once before such clearance for home consumption or export, the transaction value of the last such transaction shall be the transaction value for the purposes of clause (a) or clause (b):

Provided further that in respect of warehoused goods which remain unsold, the value or the proportionate value, as the case may be, of such goods shall be determined in accordance with the provisions of sub-section (8).

**Explanation.—** For the purposes of this sub-section, the expression “transaction value”, in relation to warehoused goods, means the amount paid or payable as consideration for the sale of such goods.

### (9) ACD 3(9) to countervail levy of GST Compensation Cess

- Any article which is imported into India shall, in addition,  
 ➔ be **liable to the goods and services tax compensation cess**  
 ➔ **at such rate**, as is leviable under section 8 of the Goods and Services Tax (Compensation to States) Cess Act, 2017  
 ➔ on a **like article on its supply** in India,  
 ➔ **on the value** of the imported article as determined under sub-section (10) **or sub-section (10A), as the case may be** **Newly Inserted by F.A.2018**



(10)	<p><b>Valuation for ACD 3(7)</b></p> <p>For the purposes of calculating the goods and services tax compensation cess under sub-section (9) on any imported article where such cess is leviable at any percentage of its value, <i>the value of the imported article shall, notwithstanding anything contained in section 14 of the Customs Act, 1962, be the aggregate of</i></p> <p>(a) <i>the value of the imported article</i> determined under sub-section (1) of section 14 of the Customs Act, 1962 or the <i>tariff value</i> of such article fixed under sub-section (2) of that section, as the case may be; and</p> <p>(b) any duty of customs chargeable on that article under section 12 of the Customs Act, 1962, (BCD) and any sum chargeable on that article under any law for the time being in force as an addition to, and in the same manner as, a duty of customs, <i>but does not include</i></p> <p>⇒ the tax referred to in sub-section (7) or</p> <p>⇒ the cess referred to in sub-section (9).</p>
(10A)	<p><b>ACD on Warehouse Sale before clearance</b> <span>Newly Inserted by F.A.2018</span></p> <p>Where the goods deposited in a warehouse under the provisions of the Customs Act, 1962 are sold to any person before clearance for home consumption or export under the said Act, the value of such goods for the purpose of calculating the goods and services tax compensation cess under sub-section (9) shall be,—</p> <p>(a) <i>where the whole of the goods are sold,</i>  <i>the value determined under sub-section (10) or</i>  <i>the transaction value of such goods, whichever is higher;</i>  <b>OR</b></p> <p>(b) <i>where any part of the goods is sold,</i>  <i>the proportionate value of such goods as determined under sub-section (10) or</i>  <i>the transaction value of such goods, whichever is higher:</i></p> <p>Provided that where the whole of the warehoused goods or any part thereof are sold more than once before such clearance for home consumption or export, the transaction value of the last of such transaction shall be the transaction value for the purposes of clause (a) or clause (b):  Provided further that in respect of warehoused goods which remain unsold, the value or the proportionate value, as the case may be, of such goods shall be determined in accordance with the provisions of sub-section (10).</p> <p><b>Explanation.</b>—For the purposes of this sub-section, the expression “transaction value”, in relation to warehoused goods, means the amount paid or payable as consideration for the sale of such goods.</p>

### Question

XYZ Ltd. has imported goods Z and filed into bond bill of entry on dated 10th Apr 2019. Goods are deposited in warehouse on 12th Apr 2019 following are the details of imported goods.

FOB price ₹ 40,00,000

Cost of transportation ₹ 3,00,000

Cost of Insurance ₹ 2,50,000

BCD @ 10%

IGST @ 10%

XYZ Ltd. has sold the entire goods to PQR Ltd. for ₹ 75,00,000 before clearance from warehouse.

Determine

a) Who is liable to pay duty on warehouse goods

b) On what value duty is payable at the time of clearance from warehouse

c) Custom duty payable

Would you answer differ If PQR Ltd. has further sold the goods to Mr. Y for ₹ 85,00,000 before clearance from warehouse.

**Answer :**

# Valuation

### Amendments by F.A. 2018 & Rule, Circulars & notification upto 31-10-2018

#### Social welfare Surcharge

Newly Inserted by F.A.2018

- (1) There shall be levied and collected, in accordance with the provisions of this Chapter, for the purposes of the Union, a duty of Customs, to be called a Social Welfare Surcharge, on the goods specified in the First Schedule to the Customs Tariff Act, 1975 (hereinafter referred to as the Customs Tariff Act), being the goods imported into India, to fulfil the commitment of the Government to provide and finance education, health and social security.
- (2) The Central Government may, after due appropriation made by Parliament by law in this behalf, utilise such sums of money of the Social Welfare Surcharge levied under this Chapter for the purposes specified in sub-section (1), as it may consider necessary.
- (3) The Social Welfare Surcharge levied under sub-section (1), shall be calculated at the rate of **ten per cent.** on the aggregate of duties, taxes and cesses which are levied and collected by the Central Government in the Ministry of Finance (Department of Revenue) under **section 12 of the Customs Act, 1962 and any sum chargeable on the goods specified in sub-section (1) under any other law for the time being in force, as an addition to, and in the same manner as, a duty of customs, but not including—**
  - (a) the **safeguard duty** referred to in sections 8B and 8C of the Customs Tariff Act;
  - (b) the **countervailing duty** referred to in section 9 of the Customs Tariff Act;
  - (c) the **anti-dumping duty** referred to in section 9A of the Customs Tariff Act;
  - (d) the Social Welfare Surcharge on imported goods levied under sub-section (1).
- (4) The Social Welfare Surcharge on imported goods shall be in addition to any other duties of customs or tax or cess chargeable on such goods, under the Customs Act, 1962 or any other law for the time being in force.
- (5) **The provisions of the Customs Act, 1962 and the rules and regulations made thereunder, including those relating to assessment, non-levy, short-levy, refunds, exemptions, interest, appeals, offences and penalties shall, as far as may be, apply in relation to the levy and collection of the Social Welfare Surcharge on imported goods as they apply in relation to the levy and collection of duties of customs on such goods under the Customs Act, 1962 or the rules or the regulations, as the case may be.**

# Warehousing

Amendments by F.A. 2018 & Rule, Circulars & notification upto 31-10-2018

## Amendment in existing Provision

### Sec. 60 - Warehousing Order

After execution of bond proper officer make an order to deposit the goods in warehouse

**Provided that such order may also be made electronically through the customs automated system on the basis of risk evaluation through appropriate selection criteria..** **Newly Inserted by F.A.2018**



### Sec. 68 Clearance for Home consumption

- a) Filing of ex bond bill of entry
- b) Payment of custom duty and other charges
- c) Order of clearance for H.C.
- d) Relinquishment of rights without payment of payment of import duty

**Provided that the order referred to in clause (c) may also be made electronically through the customs automated system on the basis of risk evaluation through appropriate selection criteria** **Newly Inserted by F.A.2018**



Sec. 69	Direct Export from W/H [Commercial Export] + Postal Exports allowed]	Without payment of ID [Bond Cancelled and released]
* Facility of direct export is not allowed in respect of notified goods where subsequent to export the goods are likely to be smuggled back into India.		

**Provided that the order referred to in clause (c) may also be made electronically through the customs automated system on the basis of risk evaluation through appropriate selection criteria.** **Newly Inserted by F.A.2018**



# Drawback

Amendments by F.A. 2018 & Rule, Circulars & notification upto 31-10-2018

## Amendment in existing Provision

### SECTION 20: RE-IMPORTATION OF GOODS

It provides that, if goods are imported into India after exportation therefrom,

I Such goods shall be liable to duty and

I Be subject to all the condition and restriction, if any

I To which goods of the like kind and value are liable on the importation thereof.

**This means that re-imported goods are treated at par with other goods, which are imported.**

**Exemptions or concessions available in respect of re-import [N/N158/95 and 45/2017 & 60/2018]**

### Amendment

Case of re-import	Time-limit for re-import	BCD, IGST & GST Cess is exempt and following sum is payable
1. Goods manufactured in India and exporter and re-imported in India for-		Duty is Fully exempt, if-
(i) repairs or re-conditioning, <b>other than goods specified in Annexure</b>	within 3 years (10 years in case of Nepal and Bhutan)	(a) Such goods are re-exported within 6 months from date of re-import (extension upto 6 months allowed by Commissioner or Principal Commissioner); and
(ii) reprocessing/refining/re-making or other similar process	within 1 year	(b) Assistant Commissioner is satisfied about identity of such goods.
2. Goods re-imported without being subjected to re-manufacturing or reprocessing through melting recycling or recasting abroad	within 3 years from date of export +2 yrs extension	
[A] if exporter under following benefit-		
(a) claiming drawback/refund of customs or central excise or state excise, or IGST		Amount of drawback/refund of customs or central/state excise duty, or IGST
(b) under bond without payment of IGST		Amounts of IGST not paid

(c) under duty exemption scheme (DEEC/ Advance Authorisation/Dfia) or Export Promotion Capital Goods Scheme (EPCG)	[only for (c) : in 1 yrs. from export + 1 yrs. extension]	Amount of IGST and GST compensation cess leviable at time and place of import
[B] Re-import of any other Goods (not falling under 2(a) to 2(c)) exported for repairs abroad and there has been no change in ownership of the goods between the time of export of such goods and re-import thereof		Value (for levy of duty) = Fair cost of repairs + Cost of materials used in repairs (such cost includible even if not actually incurred) + insurance and freight (to and fro)
[C] Re-import of any other exported goods		Nil
3) Goods as specified in Annexure, manufactured in India and re-imported into India for repairs or for reconditioning	within 7 year ( 10 years in case of Nepal and Bhutan)	Duty is Fully exempt if- (a) Goods are re-exported within 1 yr. or the date re-importation (b) Assistant/Deputy Commissioner of Custom is satisfied as regards identity of the goods (c) Failure to comply with conditions amount = duty levied at the time of re-import - duty leviable on such goods at time of importation

**Newly Inserted by F.A.2018**

## Chapter 10

## AUDIT

### SECTION 99A: AUDIT

The proper officer may carry out the audit of assessment of imported goods or export goods or of an auditee under this Act either in his office or in the premises of the auditee in such manner as may be prescribed.

Explanation.— For the purposes of this section, “auditee” means a person who is subject to an audit under this section and includes an importer or exporter or custodian approved under section 45 or licensee of a warehouse and any other person concerned directly or indirectly in clearing, forwarding, stocking, carrying, selling or purchasing of imported goods or export goods or dutiable goods

### CUSTOM AUDIT REGULATIONS, 2018

#### Definitions :-

“Audit” includes examination or verification of declaration record, entry, document, import or export licence, authorisation, scrip, certificate, permission etc. book of account, testy or analysis, report, and any other document relating to imported goods or export goods or dutiable goods, and may include inspection of sample and goods, if such sample or goods are available and where necessary, drawl of samples

“Auditee” means a person who is subject to an audit under section 99A of the Act and includes an importer or exporter or custodian approved under section 45 or licensee of a warehouse and any other person concerned directly or indirectly in clearing, forwarding, stockong, carrying, selling or puchasing of imported goods or export goods or dutiable goods

“Audit report” includes the audit finding in the report prepared after the audit containing details about objections raised by the proper officer and explanation given by the auditee, if any

“Books of account” includes ledgers, day -book, cashbooks, cash books, account books, other accounts related record whether kelt in written or printed form or stored electronically.

“Electronic record” means data or record stored in any form and manner relevant for the purpose of Audit under section 99A of the Act.

“Premises” includes the registered office, branch office, warehouses, factory, or any other premises at which, imported goods or export goods or dutiable goods or books of account or records of transaction or other related documents, in relation to the said goods are ordinarily kept for any purpose by an auditee

#### Auditee to preserve and make available relevant documents :-

- a) Auditee shall preserve and make available in a timely manner, for audit,
- true and correct information,
  - records including electronic records,
  - documents or accounts
  - maintained in compliance of the provisions of Act,

maintained for a minimum period of **five years** in relation to imported goods or export goods or dutiable goods.

- b) The auditee shall render assistance and shall in no case refuse or abstract the proper officer or his team of officer in discharge of their official duty

#### Selection for Audit:-

The selection of auditee is based on risk evaluation though appropriate selectively criteria.

#### Manner of conducting audit:-

- a) the Proper officer may conduct audit either in **his office** or in certain cases at the **premises** of an auditee
- b) the proper officer may, request the auditee to **furnish documents, information or record** including electronic record, as may be relevant to audit.
- c) The proper officer shall give **not less than fifteen days** advance notice to the auditee to conduct audit at the premises of the auditee.
- d) the proper officer may, where considered necessary, **inspect** the imported goods or export goods or dutiable goods at the premises of the auditee or **request the auditee to produce sample**, if available, with him.
- e) The proper officer shall inform the auditee of the objections, if any before preparing the audit report to **provide him an opportunity to offer clarifications with supporting documents**.
- f) where the auditee is an **agreement with the audit findings**, he may make **voluntary payments** shall record the same in the audit report.
- g) where the proper officer has asked the auditee to furnish information, documents record or sample for the purposes of audit, it shall be mandatory for the proper officer to inform outcome of such audit to the auditee.
- h) The proper officer shall **complete audit** in cases where it is conducted at the premises of the auditee **within thirty days** from the date off starting of the audit.

*Provided that the jurisdictional Commissioner of Customs may extend the period of completion of audit from **thirty days to sixty days**, by an order in writing.*

#### Assistance of Professionals:-

If the proper officer, having regard to the nature and complexity of the audit, is of the opinion that the audit has to be done with the assistance of a professional or expert may do so, with the previous approval of the Principal Commissioner/Commissioner of Customs.

#### Assistance of Professionals:-

Any auditee, who contravenes, shall be liable to a penalty which may **extend to fifty thousand Indian rupees**.

## Chapter 11

# Confiscation & Penalty

### Amendments by F.A. 2018 & Rule, Circulars & notification upto 31-10-2018

#### Amendment in existing Provision

#### Sec 122 : Authority to Confiscation

LIMIT	ADJUDICATING OFFICER
a) without any monetary limit	Principal Commissioner of Customs or Commissioner of Customs or a Joint Commissioner of Customs.
b) Upto Such limit Such officer, as the board may, by notification, specify.	
i) above ₹ 1 lakh but not exceeding ₹ 10 lakh	i) AC/DC of Customs
ii) Not exceeding ₹ 1 lakh	ii) A Gazetted officer of Customs lower in rank than an AC/DC of Customs



#### Sec. 124 : Notice of Confiscation

- 1) SCN by proper officer in writing showing grounds of Confiscation
- 2) Opportunity of representation & hearing

**Provided** further that notwithstanding issue of notice under this section, the proper officer may issue a supplementary notice under such circumstances and in such manner as may be prescribed

Newly Inserted by F.A. 2018



#### Sec. 125 : Option to pay Fine in lieu of confiscation

Prohibited goods - Giving option is discretion of Proper Officer

Other goods - Giving option is mandatory for Proper Officer

**Provided** that where the proceedings are deemed to be concluded under the proviso to sub-section (2) of section 28 or under clause (i) of sub-section (6) of that section in respect of the goods which are not prohibited or restricted, the provisions of this section shall not apply

Newly Inserted by F.A. 2018

- 3) Where the fine imposed under sub-section (1) is not paid within a period of one hundred and twenty days from the date of option given thereunder, such option shall become void, unless an appeal against such order is pending.

**Explanation.**—For removal of doubts, it is hereby declared that in cases where an order under sub-section (1) has been passed before the date\*\* on which the Finance Bill, 2018 receives the assent of the President and no appeal is pending against such order as on that date, the option under said sub-section may be exercised within a period of one hundred and twenty days from the date on which such assent is received.

Newly Inserted by F.A. 2018

Students Comments

#### Newly inserted section

#### SECTION 143AA: POWER TO SIMPLIFY OR PROVIDE DIFFERENT PROCEDURE, ETC., TO FACILITATE TRADE

Newly Inserted by F.A. 2018

Notwithstanding anything contained in any other provision of this Act, the Board may, for the purposes of facilitation of trade, take such measures or prescribe separate procedure or documentation for a class of importers or exporters or for categories of goods or on the basis of the modes of transport of goods, in order to,—

- (a) maintain transparency in the import and export documentation; or
- (b) expedite clearance or release of goods entered for import or export; or
- (c) reduce the transaction cost of clearance of importing or exporting goods; or
- (d) maintain balance between customs control and facilitation of legitimate trade.





## SECTION 151B: RECIPROCAL ARRANGEMENT FOR EXCHANGE OF INFORMATION FACILITATING TRADE

- (1) The Central Government may enter into an agreement or any other arrangement with the Government of any country outside India or with such competent authorities of that country, as it deems fit, for facilitation of trade, enforcing the provisions of this Act and exchange of information for trade facilitation, effective risk analysis, verification of compliance and prevention, combating and investigation of offences under the provisions of this Act or under the corresponding laws in force in that country.
- (2) The Central Government may, by notification, direct that the provisions of this section shall apply to the contracting State with which reciprocal agreement or arrangements have been made, subject to such conditions, exceptions or qualifications as may be specified in that notification.
- (3) Subject to the provisions of sub-section (2), the information received under sub-section (1) may also be used as evidence in investigations and proceedings under this Act.
- (4) Where the Central Government has entered into a multilateral agreement for exchange of information or documents for the purpose of verification of compliance in identified cases, the Board shall specify the procedure for such exchange, the conditions subject to which such exchange shall be made and designation of the person through whom such information shall be exchanged.
- (5) Notwithstanding anything contained in sub-section (1) or sub-section (2) or sub-section (3), anything done or any action taken or purported to have been done or taken, in pursuance to any agreement entered into or any other arrangement made by the Central Government prior to the date\* on which the Finance Bill, 2018 receives the assent of the President, shall be deemed to have been done or taken under the provisions of this section.  
Explanation.—For the purposes of this section, the expressions,—
  - (i) “contracting State” means any country outside India in respect of which agreement or arrangements have been made by the Central Government with the Government or authority of such country through an agreement or otherwise
  - (ii) “corresponding law” means any law in force in the contracting State corresponding to any of the provisions of this Act or dealing with offences in that country corresponding to any of the offences under this Act.



## SECTION 153: MODES FOR SERVICE OF NOTICE, ORDER, ETC

The date of service of an order or a communication containing a decision is of vital importance, in case the aggrieved party desires to file an appeal. The time limit allowed for appeal normally runs from the date of receipt of the communication containing the impugned decision by the aggrieved person. There are circumstances where it is not effectively possible to ensure that such communications are received by the concerned party. There are other circumstances where disputes arise about the actual date of the receipt of communication. These two problems have necessitated a uniform procedure for dispatch and service of orders, decisions, summons and other communications issued under the Customs Act. Section 153 provides the specific mode of service in this regard which is reproduced below.

*An order, decision, summons, notice or any other communication under this Act or the rules made thereunder may be served in any of the following modes, namely :—*

- (a) *by giving or tendering it directly to the addressee or importer or exporter or his customs broker or his authorised representative including employee, advocate or any other person or to any adult member of his family residing with him;*
- (b) *by a registered post or speed post or courier with acknowledgement due, delivered to the person for whom it is issued or to his authorised representative, if any, at his last known place of business or residence;*
- (c) *by sending it to the e-mail address as provided by the person to whom it is issued, or to the e-mail address available in any official correspondence of such person;*
- (d) *by publishing it in a newspaper widely circulated in the locality in which the person to whom it is issued is last known to have resided or carried on business; or*
- (e) *by affixing it in some conspicuous place at the last known place of business or residence of the person to whom it is issued and if such mode is not practicable for any reason, then, by affixing a copy thereof on the notice board of the office or uploading on the official website, if any.*

*Every order, decision, summons, notice or any communication shall be deemed to have been served on the date on which it is tendered or published or a copy thereof is affixed or uploaded in the prescribed manner.*

*Further, when such order, decision, summons, notice or any communication is sent by registered post or speed post, it shall be deemed to have been received by the addressee at the expiry of the period normally taken by such post in transit unless the contrary is proved.*

Newly Inserted  
by F.A. 2018



## Chapter 12 Goods imported & Exported by post or courier

### SECTION 83: RATE OF DUTY AND TARIFF VALUATION IN RESPECT OF GOODS IMPORTED OR EXPORTED BY POST OR COURIER

1. The rate of duty and tariff value, if any, applicable to any goods imported by, post **or courier** shall be the rate and valuation in force on the **date on which the postal authorities or the authorised courier present to the proper officer a list** containing the particulars of such goods for the purpose of assessing the duty thereon. But if such goods are imported by a vessel and the list of the goods containing the particulars was **presented before the date of the arrival of the vessel**, it shall be deemed to have been presented on the **date of such arrival**.
2. The rate of duty and tariff value, if any, applicable to any goods exported by post **or courier** shall be the rate and valuation in force on the **date on which the exporter delivers such goods to the postal authorities or authorised Courier** for exportation. **Amended by F.A.2018**

### SECTION 84: REGULATIONS REGARDING GOODS IMPORTED OR TO BE EXPORTED BY POST **OR COURIER** **Newly inserted by F.A.2018**

**The Board may make regulations providing for**

- a) The form and manner in which an entry may be made in respect of goods imported or to be exported by post **or Courier**.
- b) The examination, assessment to duty, and clearance of goods imported or to be exported by post **or Courier**
- c) The transit or transshipment of goods imported by post **or Courier** from one customs station to another or to a place outside India.

# **COMMON TOPICS**

- **ADVANCE RULING - COMPARATIVE ANALYSIS**
- **DEMAND, PROCEEDING UNDER CUSTOM**
- **SETTLEMENT COMMISSION**
- **APPEAL, REVIEW & REVISION**

# ADVANCE RULING

## Advance Ruling

Means a written decision on any of the questions referred to in section 28H raised by the applicant in his application in respect of any goods prior to its importation or exportation (Sec 28 E(b)) Amended by F.A. 2018

## Appellate Authority

Newly Inserted by F.A. 2018

means the Authority for Advance Rulings constituted under section 245-O of the Income-tax Act, 1961

## Activity

~~Activity means import or export and includes any new business of import or export proposed to be undertaken by the existing importer or exporter as the case may be. [Sec 28-E(a)]~~ Omitted by F.A. 2018

## Applicants

Amended by F.A. 2018

means any person,—  
(i) holding a valid Importer-exporter Code Number granted under section 7 of the Foreign Trade (Development and Regulation) Act, 1992; or  
(ii) exporting any goods to India; or  
(iii) with a justifiable cause to the satisfaction of the Authority,  
who makes an application for advance ruling under section 28H;

## Authority

Amended by F.A. 2018

means — The custom Authority for advance rulings appointed under section 28EA

## Chairperson

means,—The chairperson of the **appellate** authority

Amended by F.A. 2018

## Members

means — A member of the **appellate** authority & includes the chair person

Amended by F.A. 2018

## “Non-resident” “Indian company” and “foreign company”

Have the same meaning respectively assigned to them in clause (30), (26) & (23A) of the sec 2 of income tax act 1961

## The Matter in which the Advance Ruling can be obtained [Sec 28H(2)]

Classification of any goods under the CTA, 1975

Applicability of a Exemption notification issued under Section 25(1) having a bearing on the rate of duty

The principles to be adopted for the purposes of determination of value of the goods

Newly Inserted by F.A. 2018

applicability of notifications issued in respect of tax or duties under this Act or the Customs Tariff Act, 1975 or any tax or duty chargeable under any other law for the time being in force in the same manner as duty of customs leviable under this Act or the Customs Tariff Act

Determination of origin of the goods in terms of the rules notified under the Customs Tariff Act, 1975

Newly Inserted by F.A. 2018

any other matter as the Central Government may, by notification, specify.

## Question:

Can an application for advance ruling withdrawn? If yes, state th time limit for withdrawal of such application?

## Answer:-

Yes, application for advance ruling can be withdrawn within 30 days from the date of application [Section 28H(4) of the custom Act, 1962].

## Applicability of Advance Ruling

- 1) Advance ruling shall be binding only -
  - a) on the application who had sought it
  - b) in respect of any matter referred to in sub-section (2) of section 28H
  - c) on the Principal Commissioner/Commissioner of Customs, and the customs authorities subordinate to him, in respect of the applicant.
- 2) Advance ruling shall be binding unless there is change in law or facts on the bases of which the advance ruling has been pronounced

## ADVANCE RULING TO BE VOID IN CERTAIN CIRCUMSTANCES [SECTION 28K]

Where the Authority finds, on a representation made to it by the Principal Commissioner/Commissioner of Customs or otherwise, that an advance ruling has been obtained by the applicant by fraud or misrepresentation of facts, it may, by order, declare such ruling to be void ab initio and thereupon all the provisions of this Act shall apply to the applicant as if such advance ruling had never been made.

Further, in computing the period of two years or five years thereof, for service of notice

	<p><i>for recovery of any duty not levied, short-levied, not paid or short-paid on account of the advance ruling, the period beginning with the date of such advance ruling and ending with the date of the order shall be excluded.</i></p> <p><b>Newly Inserted by F.A. 2018</b></p> <p><b>A copy of the order made shall be sent to the applicant and the Principal Commissioner/Commissioner of Customs.</b></p>
--	--

## APPEAL [SECTION 28KA]

	<p><i>Any officer authorised by the Board, by notification, or the applicant may file an appeal to the Appellate Authority against any ruling or order passed by the Customs Authority for Advance Rulings, within 60 days (Appellate Authority further period of 30 days appeal). from the date of the communication of such ruling or order, in the prescribed form and manner</i></p> <p><b>Newly Inserted by F.A. 2018</b></p>
--	--

## PROCEDURE FOR AUTHORITY AND APPELLATE AUTHORITY [SECTION 28M]

	<p><b>The procedure for Customs Authority for Advance Rulings may be provided by regulations by the Board. The Appellate Authority shall regulate its own procedure for the purpose of conducting its proceedings.</b></p>
--	--

## DEMAND, PROCEEDING UNDER CUSTOM

Cases	Period of Serving of SCN	Voluntary payment before SCN	If voluntary payment is short	Demand order (if SCN is issued)	Interest	Penalty
<p>1) <b>Cases other than collusion, willful-misstatement etc.</b> Where any duty payable:</p> <ul style="list-style-type: none"> <li>➤ has not been levied</li> <li>➤ has not been paid</li> <li>➤ has been short-levied</li> <li>➤ has been short-paid</li> <li>➤ has been erroneously refunded</li> </ul> <p><b>for any reason other than the reasons of:</b></p> <ul style="list-style-type: none"> <li>➤ collusion</li> <li>➤ any willful misstatement</li> <li>➤ suppression of facts</li> </ul>	<p>The proper officer shall, within <b>TWO YEARS from the relevant date, serve notice</b> on the person chargeable with the duty or interest requiring him to <b>show cause</b> why he should not pay the amount specified in the notice</p> <p><i>Provided that before issuing notice, the proper officer shall hold pre-notice consultation with the person chargeable with duty or interest in such manner as may be prescribed.</i></p> <p style="text-align: right;"><small>Newly Inserted by F.A. 2018</small></p>	<p>The person chargeable with the duty or interest, may pay before service of SCN on the basis of,-</p> <ul style="list-style-type: none"> <li>i) his own ascertainment of such duty; or</li> <li>ii) the duty ascertained by the proper officer,</li> </ul> <p>The amount of duty along with the interest.</p> <p>Such payment inform in writing to proper officer and he <b>shall not serve any SCN for such payment and penalty.</b></p> <p><b>Note:-</b> Proper office shall not serve SCN where amount is less than ` 100</p>	<p>Where the proper officer is of the opinion that the amount voluntarily paid falls short of the amount actually payable, <b>then, he shall proceed to issue the notice</b> in respect of such amount which falls short of the amount actually payable and the <b>period of TWO YEARS</b> shall be computed from the date of receipt of information of payment.</p>	<p>Proper officer shall, after allowing the concerned person an opportunity of being heard and after considering the representation and <b>shall determine the amount of duty within a period of six months from the date of notice.</b></p> <p><i>Provided that officer senior in rank to the proper officer may extent further period of six month</i></p> <p style="text-align: right;"><small>Newly Inserted by F.A. 2018</small></p>	<p>Mandatarly interest 15% p.a.</p> <p>It shall be calculated from the date on which such duty becomes due up to the date of actually payment.</p> <p>No interest is payable if it is payable consequent to board circular and paid within 45 days without reserving right up appeal.</p>	<h1>No Penalty</h1>
<p>2) <b>Cases of collusion, willful-misstatement etc.</b> Where any duty payable:</p> <ul style="list-style-type: none"> <li>➤ has not been levied</li> <li>➤ has not been paid</li> <li>➤ has been short-levied</li> <li>➤ has been short-paid</li> <li>➤ has been erroneously refunded</li> </ul> <p><b>by reason of:</b></p> <ul style="list-style-type: none"> <li>➤ collusion</li> <li>➤ any willful misstatement</li> <li>➤ suppression of facts</li> </ul>	<p>The proper officer shall, <b>within five years from the relevant date, serve notice</b> on the person chargeable with duty or interest requiring him to show cause why he should not pay the amount specified in the notice .</p>	<p><b>Voluntary payment before SCN is not available but after SCN person can make the payment voluntarily.</b></p> <p>the importer or the exporter, to whom a notice has been served under sub-section (4) by the proper officer,</p> <p>such person may pay</p> <ul style="list-style-type: none"> <li>➤ the duty in full or in part, as may be accepted by him, and</li> <li>➤ the interest @ 15% p.a.</li> <li>➤ the penalty equal to 15% of the duty specified in the notice or the duty so accepted by that person,</li> </ul> <p>within <b>30 days</b> of the receipt of the notice and inform the proper officer of such payment in writing.</p>	<p>that the duty with interest and penalty that has been paid voluntarily after SCN falls short of the amount actually payable, then, the proper officer shall proceed to issue the notice in respect of such amount which falls short of the amount actually payable and the period of <b>TWO YEAR</b> shall be computed from the date of receipt of information of payment.</p>	<p>Proper officer shall, after allowing the concerned person an opportunity of being heard and after considering the representation and <b>shall determine the amount of duty within a period of one year from the date of notice.</b></p> <p><i>Provided that officer senior in rank to the proper officer may extent further period of one year</i></p> <p><i>where the proper officer is unable to determine the amount of duty or interest for the reason that—</i></p> <p><i>(a) an appeal in a similar matter of the same person or any other person is pending before the Appellate Tribunal or the High Court or the Supreme Court; or</i></p> <p><i>(b) an interim order of stay has been issued by the Appellate Tribunal or the High Court or the Supreme Court; or</i></p> <p><i>(c) the Board has, in a similar matter, issued specific direction or order to keep such matter pending; or</i></p> <p><i>(d) the Settlement Commission has admitted an application made by the person concerned, the proper officer shall inform the person concerned the reason for non determination of the amount of duty or interest shall apply not from the date of notice, but from the date when such reason ceases to exist.</i></p> <p style="text-align: right;"><small>Newly Inserted by F.A. 2018</small></p>	<p><b>Mandatarly interest 15% p.a.</b></p> <p>It shall be calculated from the date on which such duty becomes due up to the date of actually payment.</p> <p>No interest is payable if it is payable consequent to board circular and paid within 45 days without reserving right up appeal.</p>	<p><b>Person shall be liable to pay penalty equivalent to duty or interest so determined</b></p> <p>But if duty interest and penalty is paid within 30 days of D.O. then penalty payable shall reduce to 25% of duty or interest</p> <p>Provided also that in case where duty or interest determine to be payable is increase by Commissioner (Appeals), Appellate tribunal or the court, than, the benefit of reduce penalty available if the amount of duty or interest so increased, along with interest payable thereon, &amp; 25% of the consequential increase in penalty have also been paid within 30 days of communication of order.</p>



## 2. Relevant date under Customs

Situations	Relevant Date
1. Where the duty is not levied or not paid or short levied or short paid or interest is not charged.	Date on which the proper officer makes an order for the clearance of goods.
2. Duty of customs is provisionally assessed.	The date of adjustment of duty after the final assessment thereof;
3. Duty of customs has been erroneously refunded	The date of such refund
4. In any other case	Date of payment of duty or interest

**Note1:-** For computing period of 2 year/5years period of stay by order of court or tribunal shall be excluded

**Note 2 :-** *Save as otherwise provided the proper officer may issue supplementary notice under such circumstances and in such manner as may be prescribed.*

Newly Inserted  
by F.A. 2018

**Note 3 :-** the person liable to pay the said duty along with the interest due on such amount whether or not the amount of interest is specified separately

*where an order for refund is modified in any appeal and the amount of refund so determined is less than the amount refunded, the excess amount so refunded shall be recovered along with interest thereon at the rate fixed by the Central Government from the date of refund up to the date of recovery, as a sum due to the Government.*

Newly Inserted  
by F.A. 2018

*Notice demanding duty is held not sustainable in any proceeding under this Act, including at any stage of appeal, for the reason that the charges of collusion or any wilful mis-statement or suppression of facts to evade duty has not been established against the person to whom such notice was issued and the amount of duty and the interest thereon shall be computed accordingly.*

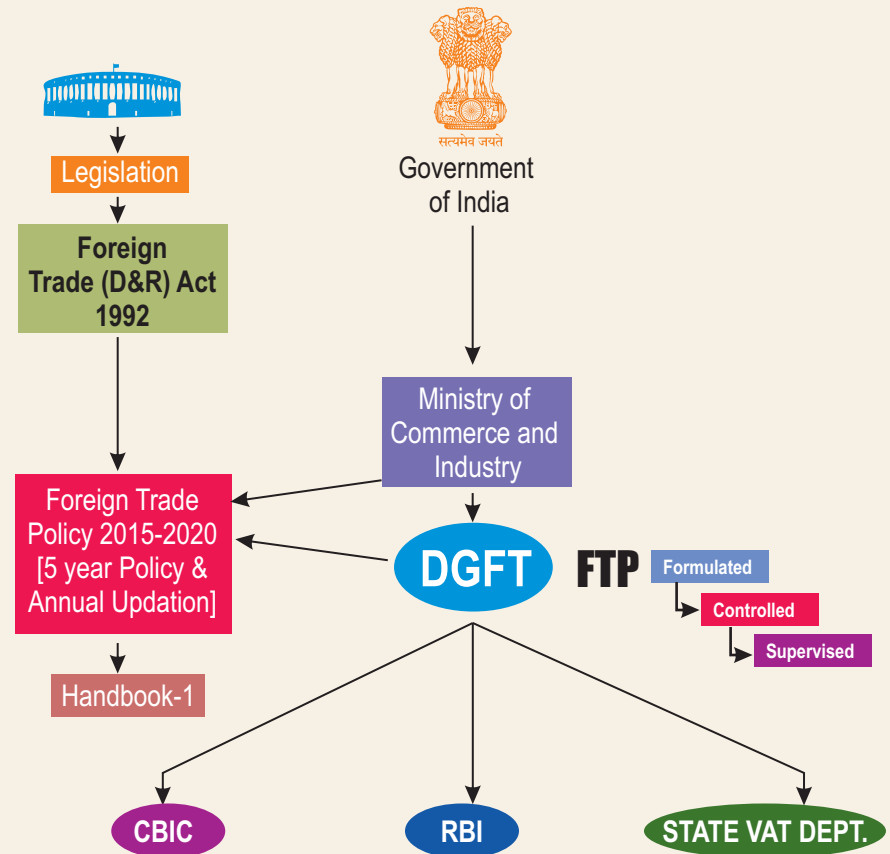
Newly Inserted  
by F.A. 2018

# FTP

## FOREIGN TRADE POLICY 2015-2020

By : CA Vishal Bhattad

### Legislation Governing Foreign Trade in India



- 1. CBIC comes under Ministry of Finance
- 2. It has two Departments namely, Customs and Central Excise facilitate in implementing the provisions of the FTP.
- 3. Customs authorities follow the policy formed by the DGFT while clearing the goods.
- 4. *Central GST authorities need to be involved for all matters of exports, where goods have to be cleared without payment of GST.* **Amended**

- 1. RBI is the nodal bank in the country which formulates the policies related to management of money, including payments and receipts of foreign exchange.
- 2. It also monitors the receipt and payments for exports and imports. RBI works under the Ministry of Finance.

Since VAT is payable on domestic goods but not on export goods, formalities with State VAT departments assume importance in ensuring tax free exports.

## FOREIGN TRADE POLICY


Topic	Points to Remember		
Objective	Developing export potential, export performance, encouraging foreign trade and creating favorable balance of payments position.		
Administration	Authority: Director General of Foreign Trade (DGFT) Other Authorities: Customs, CBEC, RBI and VAT		
Documents	Foreign Trade Policy 2015-20, Handbook of Procedures, SION, ITC (HS)		
Scope of FTP	Regulating import and export, Export Promotional Measures, Duty Remission and Exemption Scheme, Export Promotion Capital Goods (EPCG) Scheme, EOU, EHTP / STP, SEZ, Deemed Exports		
Duty Exemption Scheme  1) AA- Advance Authorisation Scheme 2) DFIA - Duty free import Authorisation		AA Scheme	DFIA Scheme
	Duty Exemptions on Imported Goods	IGST has been exempted on imports under Advance Authorisation scheme upto 01-10-2018	there is no IGST exemption available if imports are under DFIA scheme
	SION	Scheme is also applicable for goods for which SION norms is not fixed.	Scheme is <b>only</b> applicable for goods for which SION norms is fixed.
	Transferability	Advance Authorisation' is not transferable.	DFIA is transferable after export obligation is fulfilled.
	Value Addition	Advance Authorisation scheme requires 15% value addition	DFIA, minimum 20% value addition is required.
	Availability	Advance Authorisation scheme is available to gem and jewellery sector	Not for DFIA
	<b>Note : Exemption to IGST &amp; GST Cess; but, import is subject to pre-import condition [w.e.f.13-10-2017]</b> : Imports under Advance Authorization for physical exports are also exempt IGST & GST Cess [Section 3(7) & 3(9) of Customs Tariff] as may be provided in the notification issued by Department of Revenue, and such imports shall be subject to pre-import condition.		
Status Category	Status of	Export performance FOB / FOR Value* (in US \$ in Millions) (CY + Preceding 2 licensing years)	
	1 Star Export House 2 Star Export House 3 Star Export House 4 Star Export House 5 Star Export House	30,00,000 2,50,00,000 10,00,00,000 50,00,00,000 200,00,00,000	
<b>Privilege to Status holder :</b> (a) clearance on self- declaration basis, (b) fixation of input-output norms within 60 days (c) exemption from furnishing of bank Guarantee  Status holders shall be entitled to export freely exportable items (excluding Gems and Jewellery, Articles of Gold and precious metals) on free of cost basis for export promotion subject to an annual limit of ` 1 crore or 2% of average annual export realization during preceding 3 licensing years, whichever is lower.  For export of pharma products by pharmaceutical companies, the annual limit would be 2%** of the average annual export realisation during preceding 3 licensing years.  **8% in case supply of vaccines and lifesaving drugs to health programmes of international agencies such as UN, WHO-PAHO and Government health programmes.			

Newly Inserted

## REWARD SCHEME

(i) Merchandise Exports from India Scheme (MEIS)

(ii) Service Exports from India Scheme (SEIS)

Particulars	MEIS	SEIS						
Objective	<i>The objective of MEIS scheme is to promote the manufacture and export of notified goods/products.</i>	<p>The objective of SEIS scheme is to encourage export of notified services from India. The scheme applies to export of services made on or after 01.04.2015. However, only services provided in the manner / mode specified are eligible.</p> <p>► Supply of a 'service' from India to any other country (Mode 1-Cross border trade);</p> <p>► Supply of a 'Service' from India to service consumers of any other country (Mode 2- Consumption abroad)</p>						
Eligible Exporter (Claimant of Reward)	<p>1) Exporter who has realised foreign exchange</p> <p>2) Supporting Manufacturer</p>	<p>1) Service Provider with (IEC) where net free foreign exchange earned <i>of such service provider in year of rendering service is</i></p> <div><p style="text-align: center;"><b>Amended</b></p><p><b>Note :</b> Payment in Indian Rupees for service charges earned on specified services, shall be treated as receipt in deemed foreign exchange as per guidelines of Reserve Bank of India.</p></div>						
Notified Goods & Rate of Reward	<p>Under MEIS, exports of notified goods/products to notified markets shall be eligible for reward at the specified rate(s). Unless otherwise specified, the basis of calculation of reward would be:</p> <p>(i) on realised FOB value of exports in free foreign exchange, <b>or</b></p> <p>(ii) on FOB value of exports as given in the Shipping Bills in free foreign exchange, whichever is less.</p>	<p>Percentage Rate specified under SEIS for i.e. business services 3 to 5% or communication service 5% of net foreign exchange earned etc.</p> <table><tr><td>Gross Earning of Foreign Exchange relating to service sector in the Financial year [Note A&amp;B]</td><td>XXXX</td></tr><tr><td>Less : Total expenses / payment / remittances of Foreign Exchange by the IEC holder, relating to service sector in the Financial year</td><td>(xxx)</td></tr><tr><td>Net Foreign Exchange</td><td>XXXX</td></tr></table> <p><b>Note :</b> Other sources of foreign exchange should not be consider e.g. equity or debt participation, loan etc.</p>	Gross Earning of Foreign Exchange relating to service sector in the Financial year [Note A&B]	XXXX	Less : Total expenses / payment / remittances of Foreign Exchange by the IEC holder, relating to service sector in the Financial year	(xxx)	Net Foreign Exchange	XXXX
Gross Earning of Foreign Exchange relating to service sector in the Financial year [Note A&B]	XXXX							
Less : Total expenses / payment / remittances of Foreign Exchange by the IEC holder, relating to service sector in the Financial year	(xxx)							
Net Foreign Exchange	XXXX							
% of Reward (Scrip value) based on	FOB value of export goods.	Net foreign exchange earned. ( Refer note 1)						
In-eligible Category	<p><b>The following exports categories/Sectors shall be inelligible under MEIS [amended w.e.f.5-12-2017]</b></p> <p>(i) Supplies made form DTA units to SEZ units.</p> <p>(ii) Export of imported goods covered under 'Import for Export' provision</p> <p>(iii) Exports through trans-shipment, meaning thereby exports that are origination in third country but transhipped through India.</p> <p>(iv) Deemed Exports</p> <p>(v) SEZ/EOU/EHTP/BTP/FTWZ products exported through DTA units.</p> <p>(vi) Export products which are subject to Minimum export price or export duty.</p> <p>(vii) Exports made by units in FTWZ.</p>	<p><b>Service based</b></p> <ul style="list-style-type: none"><li>•Service providers in Telecom Sector:</li><li>•Export turnover relating to<ul style="list-style-type: none"><li>► services of units operating under SEZ or</li><li>► s upplies of services made to such units ;</li></ul></li></ul> <p><b>Source based</b></p> <ul style="list-style-type: none"><li>•Other sources of foreign exchange earnings such as equity or debt participation, donations, receipts of repayment of loans etc. and any other inflow of foreign exchange, unrelated to rendering of service, would be inelligible.</li></ul> <p><b>Account based</b></p> <ul style="list-style-type: none"><li>• Payments for services received from EEFC Account</li></ul> <p><b>Goods based</b></p> <ul style="list-style-type: none"><li>• Exports of Goods</li></ul>						

Topic	Points to Remember
<b>Types of EPCG Scheme</b>	<i>EPCG scheme allows import of capital goods for pre-production, production and post-production at zero customs duty.</i> <i>Ü Capital goods imported under EPCG Authorisation for physical exports are also exempt from IGST and Compensation Cess upto 01.10.2018. <b>Amended</b></i>
	1) Export Obligation (EO) - 6 times of duty saved from C.G. & fulfillment within 6 years (it also includes turnover under duty exemption scheme drawback scheme deemed export etc.
	2) Validity of authorisation - 18 months from date of Issue
	3) Actual User Condition- Yes, till EO is completed
	4) Transferability - allowed after completion of EO
	Ü In case integrated tax and compensation cess are paid in cash on imports under EPCG, incidence of the said integrated tax and compensation cess would not be taken for computation of net duty saved provided input tax credit is not availed. <b>Amended</b>
	5) Eligible Exporter - Manufacturer, Exporter including supporting manufacturer, Merchant Exporter, Service Provider
	<b>6) Eligible and ineligible capital goods:</b>
	<b>Eligible capital goods include</b>
	Capital Goods including capital goods in CKD/SKD condition
	<i>Computer systems and software which are a part of the Capital Goods being imported <b>Amended</b></i>
	<i>Spares, moulds, dies, jigs, fixtures, tools &amp; refractories</i>
	Catalysts for initial charge plus onesubsequent charge
	Capital goods for Project Imports notified by CBIC
	<b>7) Indigenous sourcing of capital goods</b> - specific EO shall be 25% less than the EO mentioned above, i.e. EO will be 4.5 times (75% of 6 times) of duty saved on such goods procured.
	<b>8) Post Export EPCG Duty Credit Scrip(s)</b> : Capital Goods are imported on full payment of applicable duties in cash. Later, basic customs dutypaid on Capital Goods is remitted in the form of freely transferable duty credit scrip(s).

**Note : Indigenous Sourcing of Capital Goods** - Domestic Supplier/EOU eligible for 'deemed export' benefit under FTP & GST- Supplies counted for position NFE of EOU : A person holding an EPCG authorisation may source capital goods from a domestic manufacturer. Such domestic manufacturer shall be eligible for deemed Export benefit under FTP and as may be provided under GST Rules under category of Deemed Exports. Such domestic sourcing shall also be permitted from EOUs and these supplies shall be counted for purpose of fulfilment of positive. NFE (net foreign exchange) by said EOU. [W.e.f. 13-10-2017]

Topic	Points to Remember
<b>EOUs / EHTPs /STPs / BTP</b>	<ol style="list-style-type: none"> <li>1. Eligibility: Units undertaking to export their entire production of goods and services, may be set up under the Export Oriented Unit (EOU) Scheme, Electronics Hardware Technology Park (EHTP) Scheme, Software Technology Park (STP) Scheme or Bio-Technology Park (BTP) Scheme for manufacture of goods, including repair, re-making, reconditioning, re-engineering and rendering of services.</li> <li>2. Imports: <ol style="list-style-type: none"> <li>(a) Duty Free Imports: The unit may import and/ or procure, from DTA or bonded warehousesin DTA, without payment of duty</li> <li>(b) Capital Goods:Units shall also be permitted to import goods including capital goodsrequired for approved activity, free of cost. Import of capitalgoods will be on a self certification basis with actual usercondition and shall be utilized for export production. Second hand capital goods, without anyage limit, may also be imported duty free.</li> <li>(c) Central Facility:EOU/ EHTP/ STP/ BTP units may import/ procure from DTA, without payment of duty, certainspecified goods for creating acentral facility. Software EOU/ DTA units may use such facilityfor export of software.</li> </ol> </li> </ol> <p>Note : Duty/Tax-free imports &amp; Duty/tax-paid domestic purchases for creating a central facility : EOU/EHTP/STP/BTP units may import/procure certain specified goods for creating a central facility-</p> <ol style="list-style-type: none"> <li>(a) import, withou payment of basic customs duty and additional duty of Customs and without payment of Integrated Tax and GST Compensation Cess leviable under Customs Tariff Act as per notification issued by the Department of Revenue; and /or</li> <li>(b) procure from DTA, with payment of applicable taxes under GST and/or Cenvat (Excise)</li> </ol>
<b>Special Economic Zone</b>	<ol style="list-style-type: none"> <li>1 SEZ are like a separate island within the territory of India. SEZs are projected as duty free area for the purpose of trade, operations, duty, and tariffs. SEZ units are self-contained and integrated having their own infrastructure and support services. SEZ is considered to be a place outside India for all tax purpose.</li> <li>2 As perlaw, SEZ unitsare deemed to be outside the customs territory of India. Goods and services coming into SEZsfrom thedomestic tariff area or DTA are treated as exports from India and goods and servicesrendered from the SEZ to the DTA aretreated as imports into India.</li> </ol>
<b>Deemed Exports</b>	<ol style="list-style-type: none"> <li>1. Supplies to domestic entities who can import their requirements duty free / at reduced rates of duty.</li> <li>2. Supplies to projects/ purposes that involve international competitive bidding.</li> <li>3. Supplies to infrastructure projects of national importance.</li> </ol>
<b>Benefits deemed exports</b>	<ol style="list-style-type: none"> <li>1. Advance Authorisation/ Advance Authorisation for Annual requirement/ DFIA</li> <li>2. Deemed Export Drawback</li> <li>3.<i>The refund of drawback in the form of basic customs duty of the inputs used in manufacture and supply under the said category shall be given on brand rate basis upon submission of documents evidencing actual payment of basic custom duties. <b>Amended</b></i></li> </ol>

## Custom &amp; Central excise duties drawback rule 2017

## DRAWBACK RATES NOTIFIED BY CENTRAL GOVERNMENT

Special Brand Rate  
(Rule 7)

When the drawback rate is low, a SPECIAL BRAND RATE will be applicable.

Where the rate is lower than 4/5th (i.e. 80%) of the duty/taxes paid, revised rate may be applied for within 3 months from the date of announcement of AIR.

Ac/Dc	Extension for further 3 months
Principal Comm / Comm.	Further extension for 6 months

Proper rate will be fixed by the Principal Commissioner or Commissioner brand rate letter will be issued accordingly and provisional payment will be allowed subject to adjustment.

**Application Fees :**

1. 1% of FOB or ₹ 1000 whichever is less
2. In case Principal commissioner & Commissioner applicable fees : 2% of FOB or 2000 which ever is less

Brand Rate  
(Rule 6)

Brand rate shall be issued for such goods for which no AIR is announced by the Central Government. Exporter shall apply for brand rate within 3 months from the date of announcement of AIR.

Ac/Dc	Extension for further 3 months
Principal Comm / Comm.	Further extension for 6 months

For this purpose exporter shall submit to the Principal Commissioner or Commissioner records pertaining to

- The proportion in which the materials or components are used in the production or manufacture of goods and the duties paid on such materials or components

Principal Commissioner or Commissioner after carrying necessary enquiry fix brand rate for such exporter.

**Application Fees :**

1. 1% of FOB or ₹ 1000 whichever is less
2. In case Principal commissioner & Commissioner applicable fees : 2% of FOB or 2000 which ever is less

**Cases where no amount or rate of drawback is to be determined [Rule 8]:** No amount or rate of drawback shall be determined in respect of any goods or class of goods under rule 6 or rule 7, as the case may be, if the export value of each of such goods or class of goods in the bill of export or shipping bill -

- (i) is less than the value of the imported materials used in the manufacture of such goods or class of goods; or
- (ii) is not more than such percentage of the value of the imported materials used in the manufacture of such goods or class of goods as the Central Government may, by notification in the Official Gazette, specify in this behalf.

### Notification No. 29 /2018 Cus (NT) dated 02.04.2018 has prescribed the Pre-notice Consultation Regulations, 2018.

1. CBIC prescribes Pre-notice Consultation Regulations, 2018 The proviso to clause (a) of sub-section (1) of section 28 of the Customs Act, 1962 provides that before issuing a notice for recovery of duty (ies) the proper officer shall hold pre-notice consultation with the person chargeable with duty or interest in such manner as may be prescribed.

issue but for a different period or documents has been issued after pre-notice consultation, the proper officer may proceed to issue the show cause notice for subsequent periods without any further consultation.[Effective from 02.04.2018]

The significant provisions of the said regulations are discussed as under:

• **Meaning of term “Consultation”:** “consultation” means communication of the grounds known to the proper officer for issuance of notice to the person chargeable with duty or interest in order to elicit the response of the person and consideration of the representation of the said person.

• **Manner of conducting pre-notice consultation:** The pre-notice consultation needs to be done in the following manner:

- (1) Before the notice is issued, the proper officer shall inform, in writing, the person chargeable with duty or interest of the intention to issue the notice specifying the grounds known to the proper officer on which such notice is proposed to be issued and the process of pre-notice consultation shall be initiated as far as possible **at least 2 months before the expiry of the time limit mentioned in section 28(3) of the Act.**

Section 28 provides that the proper officer shall issue a notice of recovery of duties within 2 years from the relevant date. **In case the assessee has already made the payment he must inform the same in writing to the proper officer.**

However, if proper officer is of the opinion that the amount paid falls short of the amount actually payable he may proceed to issue the notice and the period of 2 years shall be computed from the date of receipt of information.

- (2) The person chargeable with duty or interest may, **within 15 days from the date of communication** referred to in sub regulation (1), make his submissions in writing on the grounds so communicated:

However, if no response is received, from the person to whom the grounds on which notice is proposed to be issued, is received within the specified time, the proper officer shall proceed to issue the notice to the said person without any further communication:

Further, while making the submissions, **the person chargeable with duty or interest shall clearly indicate whether he desires to be heard in person by the proper officer.**

- (3) The proper officer, may if requested, **hear the person within 10 days of receipt of the submissions** and subject to the provisions of section 28, decide whether any notice is required to be issued or not.

**However, no adjournment for any reason shall be granted in respect of the hearing allowed under this regulation.**

- (4) Where the proper officer, after consultation, decides not to proceed with the notice then he shall, by a simple letter, intimate the same to the person concerned.
- (5) **The consultation process shall be concluded within 60 days from the date of communication of grounds.**
- (6) Where the proposed show cause notice is in respect of a person to whom **a notice on the same**



## SECTION 110: SEIZURE OF GOODS, DOCUMENTS AND THINGS

- 1) **If the proper officer has reason to believe that any goods are liable to confiscation under this Act, he may seize such goods :**

**Provided** that where it is not practicable to seize any such goods, the proper officer may serve on the owner of the goods an order that

- ▶ he shall not remove,
- ▶ part with, or otherwise deal with the goods except with the previous permission of such officer.

- 1A) **The Central Government may, having regard to**

- ▶ the perishable or hazardous nature of any goods,
- ▶ depreciation in the value of the goods with the passage of time,
- ▶ constraints of storage space for the goods or
- ▶ any other relevant considerations,

by notification in the Official Gazette, specify the goods or class of goods which shall, as soon as may be after its seizure, be disposed of by the proper officer in such manner as prescribed by the Central Government.

- 1B) Where any goods have been seized by a proper officer he shall prepare an inventory of such goods containing such details relating to their

- ▶ description
- ▶ quality,
- ▶ quantity,
- ▶ mark,
- ▶ numbers,
- ▶ country of origin and
- ▶ other particulars as the proper officer may consider relevant to the identity of the goods in any proceedings under this Act

and shall make an application to a Magistrate for the purpose of

- a) certifying the correctness of the inventory so prepared.
- b) taking, in the presence of the Magistrate, photographs of such goods, and certifying such photographs as true; or
- (c) allowing to draw representative samples of such goods, in the presence of the Magistrate, and certifying the correctness of any list of samples so drawn

Where any goods are seized and no notice in respect thereof is given under clause (a) of section

124 within six months (extendable to further six month by principal Commissioner of Customs or Commissioner of Customs) **Newly Inserted**

of the seizure of the goods, the goods shall be returned to the person from whose possession they were seized.

1C) Where an application is made under sub-section (1B), the Magistrate shall, as soon as may be, allow the application

Provided further that where any order for provisional release of the seized goods has been passed under section 110A, the specified period of six months shall not apply **Newly Inserted**

### 1. Entitlement under MEIS for exports made through courier or foreign post office enhanced [Notification No. 22/2015-20 dated 26.07.2018]

Presently, export of handicraft items, handloom products, books/periodicals, leather footwear, toys and tailor made fashion garments through courier or foreign post office using e-commerce of FOB value upto Rs. 25000 per consignment are entitled for reward under MEIS.

However, DGFT has amended the said provision and provided that for export of aforesaid items through courier or foreign post office of FOB value upto Rs. 5,00,000 per consignment will be entitled for reward under MEIS.

If the value of exports is more than Rs. 5,00,000 per consignment then MEIS reward would be calculated on the basis of FOB value of Rs. 5,00,000 only.

With this amendment, the limitation on the port of exports for courier exports for the purpose of incentivisation under MEIS has been done away with.

### 2. Removal of limit of Rs. 1 crore per year for exports on Free of Cost Exports basis for export promotion for Status Holders [Notification No. 28/2015-20 dated 27.08.2018]

Presently, Status holders are entitled to export freely exportable items (excluding Gems and Jewellery, Articles of Gold and precious metals) on free of cost basis for export promotion subject to an annual limit of Rupees 1 Crore or 2% of average annual export realization during preceding three licensing years, whichever is lower.

However, DGFT vide Notification No. 28/2015-20 dated 27th August 2018 has amended the aforesaid provision to provide the following:

Status holders shall be entitled to export freely exportable items (excluding Gems and Jewellery, Articles of Gold and precious metals) on free of cost basis for export promotion subject to an annual limit as below:

- Annual limit of 2% of average annual export realization during preceding three licensing years for all exporters (excluding the exporters of following sectors-(1) Gems and Jewellery Sector, (2) Articles of Gold and precious metals sector).
- Annual limit of Rupees 1 Crore or 2% of average annual export realization during preceding three licensing years, whichever is lower. (for exporters of the following sectors-(1) Gems and Jewellery Sector, (2) Articles of Gold and precious metals sector).

In nutshell, it means that the limit of Rs 1 Crore per year for exports on free of cost exports basis for export promotion for Status Holders is removed and is made 2% of average annual export realization during preceding three licensing years.

### 3. Extension of IGST and Compensation Cess exemption under Advance Authorisation, EPCG and EOU scheme upto 31.03.2019 [Notification No. 35/2015-20 dated 26.09.2018]

IGST and Compensation Cess have been exempted upto 01.10.2018 on imports under Advance Authorisation for physical exports, Capital Goods imported under EPCG authorisation and imports made by EOUs.

In this regard, DGFT vide Notification No. 35/2015-20 dated 26.09.2018 has extended IGST and Compensation Cess exemption under Advance Authorisation, EPCG and EOU schemes upto 31.03.2019.