

DIRECTOR GENERAL OF FOREIN TRADE AUDIT MANUAL

Office of Director General of Audit

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Preface

Directorate General of Foreign Trade (DGFT) organisation is an attached office of the Ministry of Commerce and Industry and is headed by Director General of Foreign Trade. Directorate General of Foreign Trade is primarily responsible for the formulation of export and import guidelines and principles for Indian importers and exporters of the country for promoting exports in the country.

This manual, primarily designed for auditors, entails details as well as a brief description audit checks for audit of various export programmes such as Reward Schemes, Duty Exemption/Remission schemes, Export Promotion Capital Goods Scheme, EOU/EHTP/STP schemes implemented by DGFT. This also includes a brief checklist for audit of DGFT EDI system, which is a part of e-Trade, an Integrated Mission Mode Project under National e-Governance Plan. An attempt has also been made to highlight the limitations of EDI system in conduct of revenue audit.

I feel immense pleasure in releasing this manual which has been designed to provide an understanding of this entity to auditors and would go a long way in facilitating audit of this organisation. Last but not the least, I would like to place on record appreciation for the efforts of staff of the office of Director General of Audit (Central). Any feedback would not only systematise this manual but also bring about significant improvement.

(KR Sriram)

Deputy Comptroller and Auditor General (Revenue)

CHAPTER-I Introduction

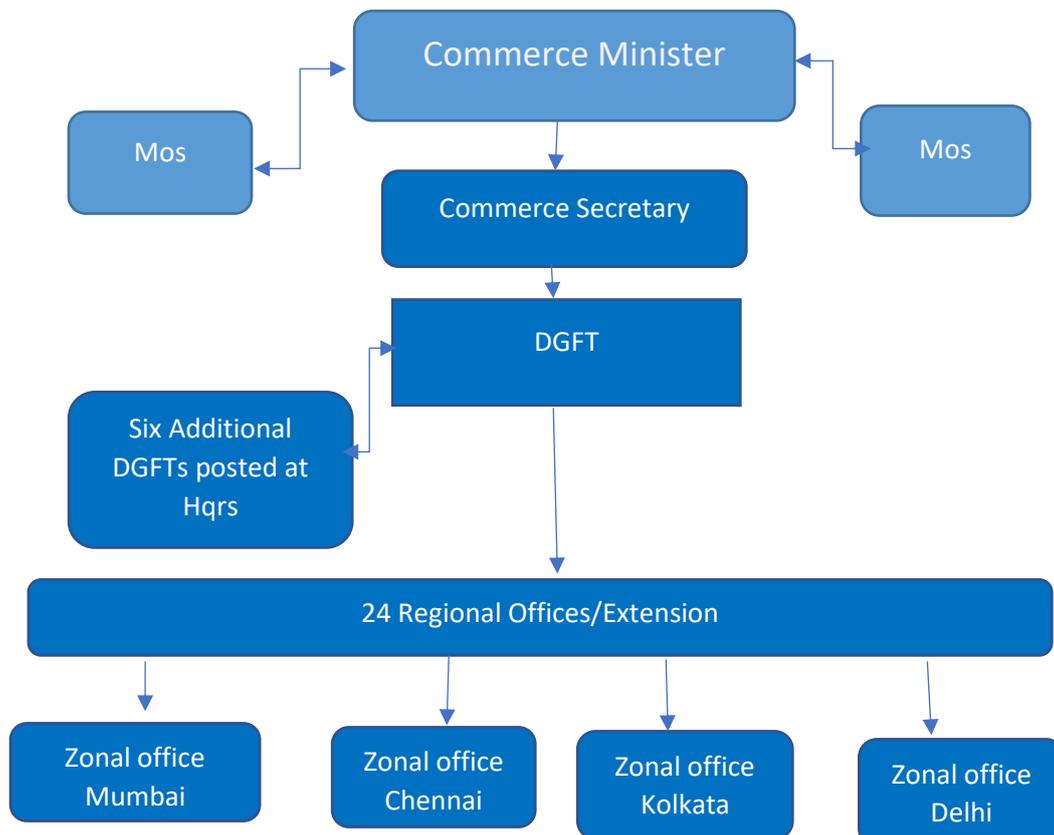
1.Introduction

Directorate General of Foreign Trade (DGFT) organisation is an attached office of the Ministry of Commerce and Industry and is headed by Director General of Foreign Trade. Right from its inception till 1991, when liberalization in the economic policies of the Government took place, this organization has been essentially involved in the regulation and promotion of foreign trade through regulation.

Keeping in line with liberalization and globalization and the overall objective of increasing of exports, DGFT has since been assigned the role of "facilitator". There has been a paradigm shift from prohibition and control of imports/exports to promotion and facilitation of exports/imports, keeping in view the interests of the country.

1.1 Organisational set up

Directorate General of Foreign Trade (DGFT) organisation with the headquarters at Delhi is responsible for formulation and implementation of India's exports. There are four Zonal Offices at Delhi, Mumbai, Kolkata, and Chennai headed by Additional Director General of Foreign Trade. There are 24 Regional Authorities (RAs) all over the country. The DGFT also issues scrips/authorisations to exporters and monitors their export obligations through a network these RAs. The organisational set up of the organisation is as follows:



1.2 Administrative machinery of the foreign trade policy

The administrative machinery associated with formulation and execution of foreign trade policy is discussed below:

- (i) **Director General of Foreign Trade:** Director General of Foreign Trade (DGFT), an attached office of the Ministry of Commerce & Industry, Government of India formulates, controls, and supervises the Foreign Trade Policy. DGFT has several offices in various parts of the country for execution of the policy formed by the headquarters at Delhi.
- (ii) **Other Authorities involved in administration of FTP:** Though the FTP is formulated by DGFT, it is administered in close coordination with other agencies, like-
 - (a) **Central Board of Indirect Taxes (CBIC):** CBIS, along with its departments, under the Ministry of Finance, facilitate the implementation of FT. Customs Department which is responsible for clearance of export and import goods, follow the policy framed by FTP. On the other hand, the GST Authorities are required to be involved for all matters of exports, where goods have to be cleared without payment of Integrated tax.
 - (b) **Reserve Bank of India (RBI):** RBI which is the nodal bank in the country, working under the Ministry of Finance, is entrusted with policy formulation for foreign exchange management including the payments and receipts of foreign exchange and promotion and orderly development and maintenance of foreign exchange market in India.
 - (c) **State GST Departments:** To avoid dual control, some taxable persons are under jurisdiction of State GST authorities. In their case, State GST Authorities are controlling authorities.

1.3. Contents of Foreign Trade Policy

The contents of the FTP 2015-2020 are as follows-

- (a) **FTP 2015-2020** having **9 Chapters** provides basic policy. This has been notified by the Central Government on 01-04-2015. The policy is amended normally in April every year and also during the year.
- (b) **Handbook of Procedures 2015-2020:** (HBP 2015-2020) containing 9 chapters, covers procedural **aspects of policy**. This has been notified by Director General of Foreign Trade on 01-04-2015. It is amended from time to time as per requirements.
- (c) **Appendices and Aayat Niryat Forms (AANF)** contains various appendices and forms relating to import and export.
- (d) **Standard Input-Output Norms:** Standard Input-Output Norms (SION) of various products are notified from time to time. Based on SION, exporters are provided the permission in terms of the FT(D&R) Act to import or export. It also grants Importer facility to make duty-free import of inputs required for manufacture

of export products under the Duty Exemption Schemes like Advance Authorisation and DFIA.

- (e) **ITC (HS) Classification of Exports and Import Items:** The Export Import Policy regarding import or export of a specific item is given in the Indian Trade Classification Code based on Harmonized System of Coding **[ITC(HS)]**. ITC-HS Coding was adopted in India for import-export operations. Indian custom uses **eight-digit ITC-HS Codes** to suit the national trade requirements.
- (f) ITC-HS codes are divided into two schedules. **ITC(HS) Import Schedule I** describe the rules and guidelines related to **import policies**, whereas **Schedule II** describe the rules and regulation related to **export policies**. Presently, most of the goods can be imported without any authorization. Schedule contains very few products, where export is prohibited or restricted. Excluding those items, export of all other goods is free. Any changes or formulation or addition of new codes in ITC-HS Codes are carried out by DGFT (Directorate General of Foreign Trade).



- (g) **Foreign Trade Policy vis a vis tax laws:** The FTP is closely knit with the Customs, GST Laws and Excise laws of India. However, the policy provisions per-se do not override tax laws. The exemptions extended by FTP are given effect to by issue of notifications under respective tax laws (e.g., Customs Tariff Act). Thus, actual benefit of the exemption depends on the language of exemption notifications issued by the CBIC. In most of the cases the exemption notifications refer to policy provisions for detailed conditions. Ministry of Finance/Tax Authorities cannot question the decision of authorities under the Ministry of Commerce (so far as the issue of authorization etc. is concerned).

1.4 Objectives of FTP 2015-20.

The FTP for 2015-2020 seeks to achieve the following objectives:

- a) **Stable and sustainable policy environment for foreign trade:** To provide a stable and sustainable policy environment for foreign trade in merchandise and services.

- b) **Export Promotion Mission:** To link rules, procedures and incentives for exports and imports with other initiatives such as “**Make in India**”, “**Digital India**” and “**Skills India**” to create an “**Export Promotion Mission**” for India.
- c) **Diversification of India’s export:** To promote the diversification of India’s export basket by helping various sectors of the Indian economy to gain global competitiveness with a view to promoting exports.
- d) **Expansion and integration of export market:** To create an architecture for India’s global trade engagement with a view to expanding its markets and better integrating with major regions, thereby increasing the demand for India’s products and contributing to the government’s flagship “**Make in India**” initiative.
- e) **Regular appraisal:** To provide a mechanism for regular appraisal in order to rationalise imports and reduce the trade imbalance.

1.5 Various measures in the direction of Foreign Trade

The various measures taken for facilitating foreign trade are briefly stated below:

- ✓ **Only three mandatory documents:** The number of mandatory document required for exports and imports of goods from/into India have been **reduced to 3 each** (discussed in detail later).
- ✓ **24 * 7 Customs clearance:** The facility of **24 * 7 Customs clearance** for specified imports has been made available at the **18 specified seaports**. The facility of 24 * 7 Customs clearance for specified imports has also been made available at the **17 specified air cargo complexes**. The 24 * 7 Customs clearance facility has now been extended to **all Bills of Entry** (not only facilitated Bills of Entry). Further, **no MOT charges** are required to be collected in respect of the services provided by the Customs officers at 24 * Customs Ports and Airports.
- ✓ **Single window scheme:** Indian Customs has introduced **SWIFT (Single Window Interface for Facilitating trade)** w.e.f. 01-04-2016 for ensuring ease of doing business.
Under SWIFT, the Importers electronically lodge Integrated Declaration at a single point only with Customs. The required permission, if any, from other regulatory agencies (such as Animal quarantine, Plant quarantine, Drug Controller, Textile Committee etc.) is obtained online without the importer/exporter having to separately approach these agencies. Benefits of Single Window Scheme include:
 - Reduced Cost of doing business.
 - Enhanced transparency.
 - Reduced duplicity and cost of compliance.
 - Optimal utilization of manpower.
- ✓ **Prior Online filling of shipping bill:** To facilitate processing of shipping bills before actual shipment, prior online filing facility for shipping bills has been

provided by the Customs – **7 days for air shipments**& ICDs and **14 days for shipments by sea.**

Online filing of documents: DGFT under the EDI initiatives has provided the facility of on-line filing of applications to obtain Importer Exporter Code and various authorizations/scripts.

Exports from and imports in India, need a lot of regulatory requirements to be complied with at various stages. Yet if properly planned, exports and imports can utilize a lot benefits that are available under various provisions of the FTP. The policy not only prescribes the guidelines as to which goods and services can be imported/ exported and the relevant procedures thereto but also provides a lot of benefits if properly planned.

- ✓ Schemes like Duty Exemption Schemes, EPCG Schemes, deemed exports, etc., benefit exporters, importers and even defined domestic businesses thereby assisting all business to reduce costs at every stage in the value chain. In addition, exporters can avail other benefits under promotional schemes.
- ✓ **National Committee on Trade Facilitation (NCTF):** Consequent to India's ratification of the **WTO Agreement on Trade Facilitation (TFA)** in April 2016, the National Committee on Trade Facilitation (NCTF) has constituted. The establishment of the Committee is part of mandatory, institutional arrangement of the ITA. This inter-ministerial body on trade facilitation will be chaired by the Cabinet Secretary. its Secretariat Will be housed within the Central Board of Indirect Taxes (CBIC), in the Directorate General of Export Promotion, New Delhi. The defined objective behind setting up the NCTF is to have national level body that will facilitate domestic co-ordination and implementation of TFA provisions. It will play the lead role in developing the **Pan-India Road map for trade facilitation.** It will be instrumental in synergizing the various 21 trade facilitation perspectives across the country and will also focus on an outreach programme for sensitization of all stakeholders about TFA.

1.6 Scope of FTP

The FTP covers the policies and regulations with respect to the following matters:

- (a) Legal framework and trade facilitation – Chapter 1
- (b) General provisions regarding Import and Exports – Chapter 2
- (c) Export Promotional Measures – Exports from India Schemes – Chapter 3
- (d) Duty Remission and Duty Exemption Scheme for promotion of exports – AA and DFIA and duty drawback – Chapter 4
- (e) Export promotion Capital Goods (EPCG) Scheme – Chapter 5
- (f) Export Oriented Undertakings (EOU) / Electronic Hardware Technology Park (EHTP) / Software Technology Park (STP) and Bio- Technology Parks (BTP) Schemes – Chapter 6
- (g) Deemed Exports – Chapter 7
- (h) Quality Complaints and Trade Disputes – Chapter 8

- (i) Definitions – Chapter 9
- (j) Provisions relating to Special Economic Zone (SEZ) are contained in a separate Act and are not part of FTP.
- (k) However, provisions of SEZ are closely related to Foreign Trade Policy.
- (l) Handbook of Procedures (HBP 2015-2020) has 9 corresponding chapters which mainly deal with procedural aspects of the foreign trade policy.
- (m) **Special focus initiatives:** The FTP provides certain special focus initiatives for Market Diversification, Technological Upgradation, Support to status holders, Agriculture, Handlooms, Handicraft, Gems & Jewellery, Leather, Marine, Electronics and IT Hardware Manufacturing Industries, Green products, Exports of products from North-East, Sports Goods and Toys sectors wherein the Government of India shall make concerted efforts to promote exports.
- (n) **Board of Trade:** Board of Trade (BOT) has been constituted to advise Government of Policy measures for increasing exports, review export performance, review policy and procedures for imports and exports and examine issues relevant for promotion of India's foreign trade. **Commerce & Industry Minister will be the Chairman of the BOT.** Government shall also nominate upto **25 persons, of whom at least 10 will be experts in trade policy.** In addition, Chairmen of recognized Export Promotion Councils (EPCs) and President or Secretary- Generals of National Chambers of Commerce will be ex-officio members. BOT will meet at least once every quarter.
- (o) **Trade facilitation through EDI Initiatives:** DGFT has put in place a robust EDI system for the purpose of export facilitation and good governance. DGFT has set up a secured EDI message exchange system for various documentation related activities including import and export authorizations established with other administrative departments, namely, Customs, Banks and EPCs. This has reduced the physical interface of exporters and importers with the Government Departments and is a significant measure in the direction of reduction of transaction cost. The endeavour of DGFT has been to enlarge the scope of EDI to achieve higher level of integration with partner departments.
- (p) **E-BRC:** One prominent initiative in recent times has been the **e-BRC (Electronic Bank Realisation Certificate)** project and its successful implementation by DGFT. It has enabled DGFT to capture details of realisation of export proceeds directly from the Banks through secured electronic mode. This has facilitated the implementation of various export promotion schemes without any physical interface with the stake holders.
- (q) RBI has also developed a comprehensive IT-based system called **Export Data Processing and Monitoring Systems (EDPMS)** for monitoring of export of goods and software and facilitating AD banks to report various returns through a single platform.
- (r) **DGCI&S Commercial Trade Data: Director General of Commercial Intelligence and Statistics (DGCI&S)** is an ISO certified organization under the administrative control of DGFT. It is the provider of trade data which is a source

of guidance and direction of export & import trade and which help the exporters and importers formulate their trade strategy. **DGCI&S has put in place a Data Suppression Policy.** Transaction level data would not be made publicly available to protect privacy. DGCI&S trade data shall be made available at aggregate level with a minimum possible time lag in a query based structured format on commercial criteria.

(s) **Special Focus Initiative to expand employment opportunities:** With a view to expand employment opportunities, certain special focus initiatives for Handlooms, Handicraft, Leather, Marine, Sports Goods and Toys sectors are required. These sectors are being provided the following duty free (only basic customs duty free with effect from 01-07-2017) entitlement:

(a) Handlooms	<ul style="list-style-type: none"> ➤ Duty free import entitlement of specified trimmings and embellishments up to 5% of FOB value of exports during previous financial year. Handloom and made ups are included entitlement. ➤ Duty free import entitlement of hand knotted carpet samples up to 1% of FOB value of exports during previous financial year.
(ii) Handicrafts	<ul style="list-style-type: none"> ➤ Duty free import entitlement of tools, trimmings, and embellishments up to 5% of FOB value of exports during previous financial year. Entitlement shall extend to merchant exporters tied up with supporting manufacturers. ➤ Handicraft EPC is authorized to import trimmings, embellishments, and consumables on behalf of those exporters for whom directly importing may not be viable.
(iii) Leather and Footwear	<ul style="list-style-type: none"> ➤ Duty free import entitlement of specified items up to 3% of FOB value of exports of leather garments during preceding financial year. ➤ Duty free entitlement for import of trimmings, embellishments and footwear components for footwear (leather as well as synthetic) and other leather products up to 5% of FOB' value of exports of previous financial year.
(iv) Marine Sector	<p>Duty free import of specified specialised inputs/ chemicals and flavouring oils is allowed to the extent of 1% of FOB value of preceding financial year's export.</p>
(v) Sports Goods and Toys	<p>Duty free import of specified specialised inputs allowed to the extent of 3% of FOB value of preceding financial year's export.</p>

1.7 Provisions relating to Policy Interpretations and Relaxation.

DGFT is entrusted with the formulation, control, and supervision of the Foreign Trade Policy.

The powers granted to DGFT are as under:

i) Interpretation of Policy:

(a) DGFT- Final authority: The decision of DGFT shall be final and binding on all matters relating to interpretation of Policy, or provision in Handbook of Procedures, Appendices and Aayat Niryat Forms or classification of any item for import / export in the ITC (HS).

(b) Policy Interpretation Committee: A Policy Interpretation Committee (PIC) may be constituted to aid and advise DGFT. The composition of the PIC would be as follows:

(i) DGFT: **Chairman**

(ii) All Additional DGFTs in Headquarters: **Member**

(iii) All Joint DGFTs in Headquarters looking after Policy matters: **Members**

(iv) Joint DGFT (PRC/PIC): **Member Secretary**

(v) Any other person/ representative of the concerned Ministry/ Department, to be co-opted by the Chairman.

ii) Exemption from Policy/ Procedure:

DGFT may in public interest pass such orders or grant such exemption, relaxation, or relief, as he may deem fit and proper, on grounds of genuine hardship and adverse impact on trade to any person or class or category of persons from any provision of FTP or any procedure. While granting such exemption, DGFT may impose such conditions as he may deem fit after consulting the Committees as under:

Description	Committee
(a) Fixation/ modification of product norms	Norms Committee
(b) Nexus with Capital Goods (CG) and benefits under EPCG Schemes	EPCG Committee
(c) All other issues	Policy Relaxation Committee (PRC)

CHAPTER-2 Authorisation, Documentation and Export Obligations

2.1 Issue of Authorisation

DGFT issues authorization (earlier called as licence) for import/export. 'Authorization' means permission in terms of the FT (D&R) Act to import or export.

i) Terms and Conditions of an Authorisation:

Every Authorisation shall, *inter alia*, include following and conditions (as applicable), in addition to such other conditions as may be specified:

- Description, quantity, and value of goods
- Actual User condition (as defined in Chapter 9)
- Export Obligation
- Minimum Value addition to be achieved
- Minimum export/import price
- Bank guarantee/ Legal undertaking / Bond with Customs Authority / RA (para 2.35 of FTP).
- Validity period of import/export as specified in Handbook of Procedures.

ii) Application Fee

Application for IEC / Authorisation / License / Scrips must be accompanied by application fees as indicated in the Appendix 2K of Appendices and Aayat Niryat Forms.

ii) Clearance of Goods from Customs against Authorization:

Goods already imported / shipped / arrived, in advance, but not cleared from Customs may also be cleared against an Authorisation issued subsequently. However, such goods already imported / shipped / arrived, in advance are first warehoused against Bill of Entry for Warehousing and then cleared for home consumption against an Authorisation issued subsequently. This facility will however be not available to "restricted" items or items traded through STEs.

iii) Authorisation – Not a Right

No person can claim an Authorisation as a right and **DGFT or RA shall have power to refuse to grant or renew** the same in accordance with provisions of FT (D&R) Act, Rules made there under and FTP.

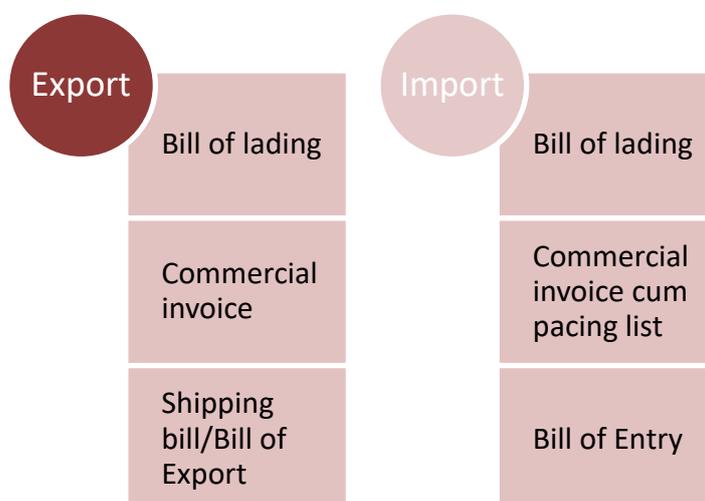
iv) Penalty:

If an authorization holder violates any condition of such authorization or fails to fulfil export obligation, he shall be liable for action in accordance with FT (D&R) Act, the Rules and Orders made there under, FTP and any other law for time being in force.

v) **Outstanding export obligations/liabilities to be informed to NCLT and RA:** Any firm/company coming under the adjudication proceedings before the National Company Law Tribunal (NCLT) shall inform the concerned Regional Authority (RA) and NCLT of any outstanding export obligations/liabilities under any of the schemes under FTP. The total outstanding duty saved amount/ dues along with interest, and any penalty imposed under FTD&R Act, or any other dues, shall be counted as part of the dues to the government against the said firm / company.

2.2 Mandatory Documents for export/import of goods from/into India.

The mandatory documents required for export and import of goods are illustrated below:



- ✓ **Additional documents required for restricted goods:** For export or import of specific goods or category of goods, which are subject to any restrictions/ policy conditions or require NOC or product specific compliances under any statute, the regulatory authority concerned may notify additional documents for purposes of export or import.
- ✓ **Additional documents to ensure legal compliance:** In specific cases of export or import, the regulatory authority concerned may electronically or in writing seek additional documents or information, as deemed necessary to ensure legal compliance.
- ✓ The above stipulations are effective from 1st April, 2015.

2.3 Denomination of Export Contracts and Non-Realisation of Export Proceeds

2.3.1 Denomination of Export Contracts:

The various provisions relating to denomination of export contracts are given below:

(i) All export contracts and invoices shall be denominated **either in freely convertible currency or Indian rupees** but export proceeds shall be realized in freely convertible currency.

(ii) However, export proceeds against specific exports may also be realized in rupees, provided it is through a **freely convertible Vostro account** of a non-resident bank situated in any country other than a member country of Asian Clearing Union (ACU) or Nepal or Bhutan. Additionally, rupee payment-through Vostro account must be against payment in free foreign currency by buyer in his non-resident bank account. Free foreign exchange remitted by buyer to his non-resident bank (after deducting bank service charges) on account of this transaction would be taken as export realization under export promotion schemes of FTP.

(iii) Contracts (for which payments are received through Asian Clearing Union (ACU) shall be denominated in **ACU Dollar**. Central Government may relax provisions of this paragraph in appropriate cases. Export contracts and invoices can be denominated in Indian rupees against EXIM Bank/ Government of India line of credit.

2.3.2 Non-Realisation of Export Proceeds:

If an exporter fails to realise export proceeds within time specified by RBI, he shall, without prejudice to any liability or penalty under any law in force, be liable to action in accordance with provisions of FT(D&R) Act, rules and orders made there under and provisions of FTP.

2.3.3 Export Promotion Councils and Registration-cum-Membership Certificate (RCMC)

i) Export Promotion Councils:

a) Export Promotion Councils (EPCs) are organizations of exporters, set up with the objective of developing exports. At present, there are fourteen Export Promotion Councils (EPCs), as mentioned below, under the Department of Commerce. The EPCs are registered as non-profit organizations under the Companies Act/ Societies Registration Act. Roles and functions of these Councils are guided by the Foreign Trade Policy 2015-20 which also recognizes them as registering authorities for exporters. Each Council is responsible for

promotion of a particular group of products/ projects/ services as given in Appendix 2T of AANF.

- b) EPCs are also eligible to function as Registering Authorities to issue Registration-cum-Membership Certificate (RCMC) to its members. The criteria for EPCs to be recognized as Registering Authorities for issue of RCMC to its members are detailed in the Handbook of Procedures.

ii) **Registration-Cum-Membership Certificate**

Registration-Cum-Membership Certificate means certificate of registration and membership granted by an Export Promotion Council/ Commodity Board/ Development Authority or other competent authority as prescribed in FTP or Handbook of Procedure.

- Certificate of Registration as Exporter of Spices (CRES) issued by Spices Board shall be treated as Registration-Cum-Membership Certificate (RCMC) for the purposes under this Policy.
- Certificate of Registration as Exporter of coir & coir products issued by the Coir Board shall be treated as Registration-Cum-Membership Certificate (RCMC) for the purposes under this Policy.
- Any person, applying for -
 - a) An Authorisation to import/export (except items) listed as 'Restricted' items in ITC (HS); or
 - b) Any other benefit or concession under FTPshall be required to furnish or upload on DGFT's website in the Importer Exporter Profile, the RCMC granted by competent authority in accordance with procedure specified in HBP, unless specifically exempted under FTP.

CHAPTER -III Export Promotion Schemes

3.1 EXPORT PROMOTION SCHEMES

The various export promotion schemes formulated by DGFT are as follows:



It is worth mentioning that EOU/EHTP/STP/BTP schemes are implemented by Development Commissioner under the Ministry of Commerce.

3.2 Reward Schemes

These aim to provide rewards to exporters to offset infrastructural inefficiencies and associated costs involved and to provide exporters a level playing fields. The two main schemes under this category are Merchandise Exports from India Scheme (MEIS) and Service Exports from India (SEIS).

(a) Merchandise Exports from India Scheme (MEIS).

(b) Service Exports from India Scheme (SEIS).

Duty Credit Scrips shall be granted as rewards under MEIS and SEIS. The Duty Credit Scrips and goods imported/ domestically procured against them shall be freely transferable.

The Duty Credit Scrips can be used for:

- (i) Payment of Basic Customs Duty and Additional Customs Duty specified under sections 3(1), 3(3) and 3(5) of the Customs Tariff Act, 1975 for import of inputs

or goods, including capital goods, as per DOP Notification, except items listed in Appendix 3A.

- (ii) Payment of Central excise duties on domestic procurement of inputs or goods,
- (iii) Payment of composition fee under FTP, for payment of application fee under FTP, if any and for payment of value shortfall in Export Obligation
- (iv) No use for payment of GST on Domestic/ Imports: In absence of enabling provision in FTP, scrip cannot be used to pay GST (CGST or SGST/UTGST or IGST or GST Cess on domestic purchases or imports). The scrips cannot be used to pay SWS. *[Circular No. 02/2020-Cus dated 10-01-2020]*
- (v) Scrip may be used to import under lease financing: Utilization of Duty Credit Scrip shall be permitted for payment of duty in case of import of capital goods under lease financing.
- (vi) Drawback of BCD paid using Scrip: Basic Customs duty paid in cash or through debit under Duty Credit scrip shall be adjusted for Duty Drawback as per DOR rules or notifications.
- vi) Scrip valid for 24 months: Duty Credit Scrip issued on or after 01-01-2016 shall be valid for 24 months from the date of issue and must be valid on date on which actual debit of duty is made.

3.2.1 MERCHANDISE EXPORTS FROM INDIA SCHEME (MEIS)

4.2.1.1 The salient features of the Scheme are stated below:

- (a) **Objective:** The Merchandise Exports from India Scheme (MEIS) is to promote the manufacture and export of notified goods/ products.
- (b) **Entitlement under MEIS:** Exports of notified goods/ products with ITC'IIISI code, to notified markets as listed in Appendix 3B, shall be rewarded under MEIS, **Appendix 3B** also lists the rate(s) of rewards on various notified products [ITC (HS) code wise).
- (c) **Basis of calculation of reward:** Unless otherwise specified, the basis of calculation of reward would be
 - a. **on realized FOB value of exports** in free foreign exchange, or
 - b. **on FOB value of exports as given in the Shipping Bills** in free foreign exchange, **whichever is less.**
- (d) **Entitlement under MEIS for Export of goods** through courier or foreign post offices: Exports of goods through courier or foreign post office, as notified in Appendix 3C, of FOB value upto 5,00,000 per consignment shall be entitled for rewards under MEIS. If the value of exports, is more than 5,00,000 per Consignment then MEIS reward would be calculated on the basis of FOB Value of 5,00,000 only,
- (e) **Ineligible categories under MEIS:** The following exports categories/ sectors shall be ineligible for Duty Credit Scrip entitlement under MEIS:

- ✓ Supplies made from DTA units to SEZ units;
- ✓ Export of imported goods covered under paragraph 2.46 of FTP;
- ✓ Exports through trans-shipment, meaning thereby exports that are originating in third country but trans-shipped through India.
- ✓ Deemed Exports;
- ✓ SEZ/ EOU /EHTP/ BTP /FTWZ products exported through DTA units;
- ✓ (Export products which are subject to Minimum export price or export duty);
- ✓ Exports made by units in FTWZ.

4.2.1.2 Audit Checks

Some illustrative checks are as follows:

- ✓ Classification of items exported should be examined, as misclassification of items may lead to excess grant of scrips to the exporter. Appendix 3B lists reward rates (2%,3%,5%, 7%) on various products ITC(HS) Code wise.
- ✓ Levy of “Late Cut” for application filed beyond the due date should be checked.
- ✓ INR realisation of export proceeds from Asian Clearing Union (ACU), Nepal and Bhutan should be checked

4.2.2 SERVICE EXPORTS FROM INDIA SCHEME

4.2.2.1 The salient features of the Scheme are as follows:

(a) Objective of Service Exports from India Scheme (SEIS) is to encourage export of notified Services from **India**.

(b) Eligibility:

i) A service provider (with active IEC at the time of rendering services) located in India, should have minimum net free foreign exchange earnings as under mentioned in year of rendering service to be eligible for Duty Credit Scrip.

➤ Individual service providers and sole proprietorship	US \$ 10,000
➤ Other service providers	US \$ 15,000

***Specified manner** is supply of a 'service' from India to any other country; (Mode 1 - Cross border trade) and supply of a 'service' from India to service consumer(s) of any other country in India; (Mode 2-Consumption abroad). 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.

- ✓ 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. The list of such services is indicated in **Appendix 3E**.

Net Foreign exchange earnings for the scheme are defined as under:

- ✓ Net Foreign Exchange = Gross Earnings of Foreign Exchange minus Total expenses/ payment/ remittances of Foreign Exchange by the IEC holder, relating to service sector in the financial year.

ii) Active IEC holder: In order to claim reward under the scheme, Service provider shall have to have an active IEC at the time of rendering such services for which rewards are claimed.

iii) NFE of services only to be taken into account for person who is manufacturer as well as service provider: If the IEC holder is a manufacturer of goods as well as service provider, then the foreign exchange earnings and Total expenses/ payment/ remittances shall be taken into account for service sector only.

(c) Ineligible categories under SEIS: Foreign exchange remittances other than those earned for rendering of notified services would not be counted for entitlement. **Thus, 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 ineligible.**

Following shall not be considered for calculation of entitlement under the scheme:

- ✓ **Foreign Exchange remittances**

(A) Related to Financial Services Sector:

- Raising of all types of foreign currency Loans
- Export proceeds realization of clients
- Issuance of Foreign Equity through ADRs/ GDRs or other similar instruments
- Issuance of foreign currency Bonds
- Sale of securities and other financial instruments
- Other receivables not connected with services rendered by financial institutions.

(B) Earned through contract / regular employment abroad (e.g. labour remittances)

- ✓ Payments for services received from EEFC Account
- ✓ Foreign exchange turnover by Healthcare Institutions like equity participation, donations etc.
- ✓ Foreign exchange turnover by Educational Institutions like equity participation, donations etc.
- ✓ Export turnover relating to services of units operating under EOU/EHTP/STPI/BTP Schemes or supplies of services made to such units
- ✓ Clubbing of turnover of services rendered by EOU/EHTP/STPI/BTP units with turnover of DTA Service Providers
- ✓ Foreign Exchange earnings for services provided by Airlines, Shipping lines service providers plying from any foreign country X to any foreign country Y routes not touching India at all

- ✓ Service providers in Telecom Sector.

(d) Remittances through Credit Card and other instruments for MEIS and SEIS: Free Foreign Exchange earned through international credit cards and other instruments, as permitted by RBI shall also be taken into account for computation of value of exports.

<p>Policy</p> <p>Circular No. 1/2015-20 dated 11.6.2015</p>	<p>SEZ is 'Indian Territory' supply of a service to SEZs is not eligible for rewards under SEIS. Only Services rendered in the specified manner of this policy shall be eligible for rewards. *Specified manner is supply of a 'service' from India to any other country; (Mode 1- Cross border trade) and supply of a 'service' from India to service consumer(s) of any other country in India; (Mode 2-Consumption abroad).</p> <p>Thus, this policy makes it abundantly clear that 'supply' of a service to any other country only is eligible for SEIS benefits under Model 1. Since SEZ is 'Indian Territory' supply of a service to SEZs is not eligible for rewards under SEIS.</p> <p>Therefore it is clarified that regardless of the amendment notified vide Notification No. 08/2015-2020 dated 04-06-2015 (through which export turnover relating to services of units operating under SEZ Scheme or supplies of services made to such units has been deleted from the list of ineligible categories under SEIS thereby making supply of a 'service' from SEZ to other countries eligible for SEIS benefits), supply of a 'service' by units located in DTA to SEZ units was and shall continue to remain ineligible for rewards under SEIS as explained above.</p>
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4.1.2.2 Checks to be exercised in respect of SEIS:

- ✓ Eligibility of Service.
- ✓ Services rendered prior to the start of the service.
- ✓ Receipt of Gross foreign exchange, expenses, and Net Foreign Exchange
- ✓ Adoption of correct exchange rates.
- ✓ Late Cut charges in case of delay filing

4.3 Duty exemption/remission schemes

4.3.1 These schemes enable duty free imports or imports at concessional rates, of capital goods and other inputs for export production or duty remission to provide relief of taxes and duties suffered by the exporters in course of producing exported goods. Advance Authorisation, Duty Free Import Authorisation and Duty Drawback are important schemes under this category. The Export Promotion Capital Goods (EPCG) scheme facilitates import of capital goods under zero/ concessional rates for producing export goods and services at competitive prices.

Duty exemption and remission schemes enable duty free import of inputs for export production, including replenishment of input or duty remission.

Duty exemption and remission schemes include the following schemes:

(a) Duty Exemption Schemes: The Duty Exemption schemes consist of the following -

- (i) **Advance Authorisation (AA)** (which includes Advance Authorisation for Annual Requirement).
- (ii) **Duty Free Import Authorisation (DFIA).**

(b) **Duty remission scheme include** Duty Drawback (DBK) Scheme, administered by Department of Revenue.

4.3.2 Advance Authorisation Scheme

4.3.2.1 The key features of advance authorisation scheme are as follows:

- i) **Advance Authorisation:** Under advance authorization scheme, INPUTS which are used in the export product can be imported without payment of customs duty.
- ii) **Details of Duties exempted:** Imports under Advance Authorisation are **exempted from payment of Basic Customs Duty, Additional Customs Duty, Education Cess, Anti-dumping Duty, Countervailing duty, Safeguard Duty and Transition Product Specific Safeguard Duty, wherever applicable.** The conditions for duty free imports against physical exports are provided in notification issued under the Customs law.
- iii) **ADD/Anti-subsidy/ Safeguard duty does not exempt in Certain Cases:** However, import against following deemed exports will not be exempt from ADD, Anti-subsidy duty and Safeguard duty:
 - Supply of Capital goods against EPCG Authorisation.
 - Supply of marine freight containers by 100% EOU (Domestic freight container-manufacturers); and
 - Supply of goods to United Nations or International Organisations, etc.

IGST and GST Compensation Cess have been exempted up to **31-03-2021** on imports under Advance Authorisation for physical exports or following deemed exports: -

- (a) Supply of goods by a registered person against Advance Authorisation.
- (b) Supply of capital goods by a registered person against Export Promotion Capital Goods Authorisation.
- (c) Supply of goods by a registered person to Export Oriented Unit.

(iv) Validity Period of Advance Authorisation:

- a) **Advance Authorisation – Valid for 12 months from the date of issue:** Validity period for import of Advance Authorisation shall be **12 months** from the date of issue of Authorisation.
- b) **Advance Authorisation for Deemed Export:** Advance Authorisation for Deemed Export shall be co-terminus with contracted **duration of project execution or 12 months** from the date of issue of Authorisation, **whichever is more.**

(v) Export Obligation:

- a) **Period for fulfilment of export obligation – 18 months:** Period for fulfilment of export obligation under Advance Authorisation shall be **18 months from the date of issue of Authorisation** or as notified by DGFT.
- b) **Period in case of deemed exports or turnkey projects:** In cases of supplies to projects in India under deemed export category or projects abroad, the Export Obligation period shall be **co-terminus with contracted duration of the project execution or 18 months whichever is more.**
- c) **Period for fulfilment of export obligation for defence items – 24 months:** Export Obligation for items falling in categories of defence, military store, aerospace and nuclear energy **shall be 24 months from the date of issue of authorization or co-terminus with contracted duration of the export order whichever is more.**
- d) Export Obligation Period for inputs, as specified in Appendix 4-J, shall be as mentioned in the relevant column of the said Appendix.

(vi) Currency for Realisation of Export Proceeds: Exports proceeds shall be realized in freely convertible currency except otherwise specified.

(vii) Basis of issue of Advance Authorisation:

Advance Authorisation issued for inputs in relation to resultant product, on the following basis:

- a) As per Standard Input Output Norms (SION) notified; or
- b) Based on self-declaration Regional Authority may also issue Advance Authorisation where there is no SION/ valid Ad hoc Norms for an export product or where SION/ Ad hoc norms have been notified/ published but exporter intends to use additional inputs in the manufacturing process, based on self-declaration by applicant. Wastage so claimed shall be subject to wastage norms as decided by on self-declaration by applicant. Wastage so claimed shall be subject to wastage norms as decided by Norms Committee. The applicant shall submit an undertaking to abide by decision of Norms Committee; or
- c) Applicant specific prior fixation of norm by the Norms Committee; or
- d) On the basis of Self Ratification Scheme. Where there is no SION/ valid Adhoc Norms for an export product and where SION has been notified but exporter intends to use additional inputs in the manufacturing process, eligible exporter can apply for an Advance Authorisation under this scheme on self-declaration and self-ratification basis. RA may issue Advance Authorisations and such cases need not be referred to Norms Committees for ratification of norms. An exporter (manufacture or merchant exporter) who holds AEO (Authorised Economic Operator) Certificate under Common Accreditation Programme of CBIC is eligible to opt for the scheme.

viii) Items which can be imported duty free against advance authorization:

Inputs, which are physically incorporated in export product (making normal allowance for wastage).

- Fuel, oil, catalysts which are consumed/ utilised to obtain export product.
- Mandatory spares which are required to be exported/ supplied with resultant product permitted **upto 10% of CIF value of Authorization.**
- Specified spices only when used for activities like crushing/ grinding/ sterilization/ manufacture of oils or oleoresins and not for simply cleaning, grading, re-packing etc.

However, items reserved for imports by STEs cannot be imported against advance authorization.

(ix) Actual User Condition for Advance Authorisation:

- a) **Actual User Condition:** Advance Authorisation and/ or material imported under Advance Authorisation shall subject to 'Actual User' condition.
- b) **Authorisation Non-transferable:** The **same shall not be transferable even after completion of export obligation.** However, Authorisation holder will have option to dispose of product manufactured out of duty free input once export obligation is complete.
- c) **If Input tax credit availed, imported inputs, to be used only in manufacture of dutiable goods:** In case where CENVAT/ input tax credit facility on input has been availed for the exported goods, even after completion of export obligation, the goods imported against such Advance Authorisation shall be utilized only in the manufacture of dutiable goods whether within the same factory or outside (by a supporting manufacturer).
- d) For this, the Authorisation holder shall produce a certificate from either Chartered Accountant, at the option of the exporter, at the time of filling application for Export Obligation Discharge Certificate to Regional Authority concerned.
- e) **Disposal of waste and scrap on payment of duty:** Waste/ scrap arising out of manufacturing process, as allowed, can be disposed off on payment of applicable duty even before fulfilment of export obligation.

(x) Eligible Applicant / Export / Supply:

- (a) **Manufacturer Exporter/ Merchant Exporter:** Advance Authorisation can be issued either to a **manufacturer exporter or merchant exporter tied to supporting manufacturer.**
- (b) **Pharma products – Only Manufacturer exporter eligible:** Advance Authorisation for pharmaceutical products manufactured through Non-Infringing (NI) process shall be issued to manufacturer exporter only.
- (c) **Physical or Deemed Exports –Both eligible:** Advance Authorisation shall be issued for:
 - (i) Physical export (including export to SEZ);
 - (ii) Intermediate supply; and/ or
 - (iii) Supplies made to specified categories of deemed exports

(iv) Supply of 'stores' on board of foreign going vessel/ aircraft, subject to condition that there is specific Standard Input Output Norms in respect of item supplied.

(xi) **Domestic sourcing of inputs:** Holder of advance authorization has an option to procure the materials/ inputs from indigenous manufacturer/ STE in lieu of direct import against Advance Release Order (ARO)/ Invalidation letter/ Back-to-Back Inland Letter of Credit. However, Advance Authorisation holder may obtain supplies from EOU/ EHTP/ BTP/ STP/ SEZ units, without obtaining ARO or Invalidation letter.

(xii) **Conditions for redeeming authorisation:** Wherever SION permits use of either (a) generic input or (b) alternative input, unless the name of the specific input together with quantity [which has been used in manufacturing the export product] gets indicated/ endorsed in the relevant shipping bill and these inputs, so endorsed, within quantity specified and match the description in the relevant bill of entry, the concerned Authorisation will not be redeemed. The name/ description of the input in the Authorisation must match exactly with the name/ description endorsed in the shipping bill.

Further, quantity of input to be allowed under Advance Authorisation shall be in proportion to the quantity of input actually used/ consumed in production. If goods are imported against advance authorization but export obligation is not fulfilled, duty and interest is payable.

The aforesaid provisions will also be applicable for supplies to SEZs and supplies made under deemed exports.

(xiii) **Advance Authorisation for Annual Requirement:**

(a) **Eligible for items notified in SION:** Advance Authorisation for Annual Requirement shall only be issued for items notified in Standard Input Output Norms (SION), and it shall not be available in case of adhoc norms. It is not available on self-declaration basis.

(b) **Export performance in last 2 years:** Exporters having pas export performance (in at least preceding two financial years) shall be entitled for Advance Authorisation for Annual requirement.

(c) **Entitlement** in terms of CIF value of imports shall be-

(d) **Upto 300% of the FOB value** of physical export and/ **or for value** of deemed export in preceding financial year; or

₹ 1 crore,

Whichever is higher.

(xiv) **Value Addition:**

Value Addition for the purpose of this Chapter (except for Gems and Jewellery sector for which value addition is prescribed separately under FTP) shall be:

$$\text{Value addition} = \frac{A - B}{B}$$

* 100,

Where-

A = FOB value of export realized/ FOR value of supply received

B = CIF value of inputs covered by Authorisation, plus value of any other input used on which benefit of DBK is claimed or intended to be claimed.

If some items are supplied free of cost by foreign buyer, its national value will be added in the CIF value of import and FOB value of export for purpose of calculating value addition. Exports to SEZ Units/ supplies to Developers/ Co-developers, irrespective of currency of realization, would also be covered.

(xv) Minimum Value Addition - 50% in case of tea and 15% in other cases:

- (i) Minimum value addition required to be achieved under Advance Authorisation is 15%.
- (ii) Export Products where value addition could be less than 15% are given in Appendix 4D.
- (iii) For physical exports for which payments are not received in freely convertible currency, value addition shall be as specified in Appendix 4C.
- (iv) In case of Tea, minimum value addition shall be 50%.

(xvi) Admissibility of Drawback:

Drawback as per rate determined and fixed by Central Excise authority shall be available for duty paid imported or indigenous inputs (not specified in the norms) used in the export product.

For this purpose, applicant shall indicate clearly details of duty paid input in the application for Advance Authorisation. As per details mentioned in the application, Regional Authority shall also clearly endorse details of such duty paid inputs in the condition sheet of the Advance Authorisation.

(xvii) Accounting of Input:

- (a) Name/description must match with shipping bill and quantity of input to be allowed shall be in same proportion to quantity of input actually used or consumed:** Wherever SION permits use of either **(a) a generic input or (b) alternative input**, unless the **name of the specific input** [which has been used in manufacturing the export product) **gets indicated/endorsed in the relevant shipping bill** and these inputs, so endorsed, match the description in the relevant bill of entry, the concerned **Authorisation will not be redeemed**. In other words, the name/ description of the input used (or to be used) in the Authorisation must match exactly with the name/ description endorsed in the shipping bill.
- (b) Proportion of inputs actually consumed to be used, if single quantity indicated in SION against more than one input:** In addition, if in any SION, a single quantity has been indicated against a number of inputs (more than one input), then quantities of such inputs to be permitted for import shall be in proportion to the quantity of these inputs actually used/consumed in production, within overall quantity against such group

of inputs. **Proportion of these inputs actually used/consumed in production of export product shall be clearly indicated in shipping bills.**

(c) Discharge of export obligation — Aforesaid inputs to be indicated in shipping bill: At the time of discharge of export obligation (issue of Export obligation discharge certificate EODC) or at the time of redemption, Regional Authority shall allow only those inputs which have been specifically indicated in the shipping bill.

(d) Provisions also be applicable for supplies to SEZs, and supplies made under Deemed export: The above provisions will also be applicable for supplies to SEZs, and supplies made under Deemed export. Details as given above will have to be indicated in the relevant Bill of Export, ARE-3, Central Excise certified Invoice/import document/ document for domestic procurement/supply.

4.3.2.2 Audit Checks for AA:

- ✓ Eligibility of supply for issuing AA.
- ✓ Fixation of Import entitlement as per SION
- ✓ AA for annual requirement to eligible applicants and eligible items.
- ✓ Actual user condition for AA.
- ✓ Application for redemption should be filed timely and properly.
- ✓ Export obligation fulfilment in terms of value and quantity.
- ✓ Payment of duty in case of rejection of self-declaration.

4.3.3 DUTY FREE IMPORT AUTHORIZATION (DFIA)

4.3.3 .1 The salient features and relevant provisions of the scheme are as follows:

i) DFIA Scheme:

DFIA is issued to allow duty free import of inputs. In addition, import of oil and catalyst which is consumed/ utilised in the process of production of export product, may also be allowed. Provisions applicable to Advanced Authorisation are broadly applicable in case of DFIA. DFIA Scheme shall not be available for import of raw sugar

ii) Duties Exempted and Admissibility of CENVAT and Drawback:

(a) DFIA shall be exempted only from payment of Basic Customs Duty. IGST will be payable on imports.

(b) Drawback as per rate determined and fixed by Customs authority shall be available for duty paid inputs, whether imported or indigenous, used in the export product. However, in case such drawback is claimed for specified in SION, the applicant should have indicated clearly details of such duty paid inputs also in the application for DFIA, and as per the details mentioned in the application, the

Regional Authority should also have clearly endorsed details of such duty paid inputs in the condition sheet of the DFIA

(iii) Eligibility:

- a. **DFIA shall be issued on post export basis (or products for which SION have been notified).**
- b. **Merchant Exporter** shall be required to mention **name and address of supporting manufacturer** of the export product on the export document viz. Shipping Bill/ Bill of Export/ Tax Invoice for export prescribed under the GST rules.
- c. Application IS to be filed with concerned Regional Authority before effecting export under DFIA.
- d. No DFIA for 'Actual User' condition inputs: No DFIA shall be issued for an export product where SION prescribes 'Actual User' condition for any input.

iv) Minimum Value Addition - 20%: Minimum value addition of 20% shall be required to be achieved except for physical exports for which payments are not received in freely convertible currency.

v) Validity & Transferability of DFIA:

- a. **Online application:** Applicant shall file **online application to Regional Authority** concerned before starting export under DFIA.
- b. **Fulfilment of exports — 12 months:** Export shall be **completed within 12 months** from the elate of online filing of application and generation of file number.
- c. **Indication of file number:** While doing export/ supply, applicant shall indicate file number on the export / supply documents viz. Shipping Bill/ Bill of Export/ Tax invoice for supply prescribed under CST rules.
- d. **Endorsement of input name and quantity in documents:** Wherever SION permits use of either (a) a generic input or (b) alternative input, the specific input together with quantity [which has been used in manufacturing the export product] should be indicated/ endorsed in the relevant Shipping Bill / Bill of Export/ Tax invoice for supply prescribed under GST rules.
- e. Only such inputs may be permitted for import in the authorisation in proportion to the quantity of these inputs used/consumed in production, within overall quantity against such generic input/ alternative input.
- f. If in any SION, a single quantity has been indicated against several inputs (more than one input), then quantities of such inputs to be permitted for import shall be in proportion to the quantity of these inputs used/consumed in production and declared in Shipping Bill/ Bill of Export/ Tax invoice for supply prescribed under GST rules within overall quantity against such group of inputs. Proportion of these inputs

used/consumed in production of export product shall be clearly indicated in Shipping Bill/ Bill of Export/ Tax invoice for supply prescribed under GST rules.

- g. Separate DFIA shall be issued for each SION and each port.

4.3.3 .2 Audit Checks for DFIA:

- ✓ Eligibility of supply for issuing DFIA.
- ✓ Products eligibility for DFIA
- ✓ Fixation of DFIA on post export basis and products for which SION has been notified.
- ✓ No DFIA for 'Actual user' condition inputs.
- ✓ Late cut in case of delayed application
- ✓ Export obligation fulfilment in terms of value, quantity, and time.

4.3.4 Export Promotion Capital Goods Scheme

The objective of the EPCG Scheme is to facilitate import of capital goods for producing quality goods and services to enhance India's export competitiveness.

4.4.1 The characteristics features of the scheme are as follows:

- (a) **Imports free of duty:** EPCG Scheme allows **import of capital goods for pre-production, and post-production at Zero customs duty.**
- (b) **IGST and GST compensation cess exempt on imports:** Capital goods imported under EPCG scheme for physical exports are also exempt from whole of the Integrated Tax leviable under Section 3(7) and Compensation Cess leviable thereon under Section 3(9) of the Customs Tariff Act, 1975 up to **31-03-2021**, as may be provided in the notification issued under Department of Revenue.
- (c) **indigenous purchases allowed:** Alternatively, the Authorisation holder may also procure Capital Goods from indigenous sources in accordance with provisions of paragraph 5.07 of FTP.

Indigenous Sourcing of Capital Goods and benefits to Domestic Supplier: A person holding an EPCG authorisation may source capital goods from a domestic manufacturer. Such domestic manufacturer shall be eligible for deemed export benefit and as may be provided under GST Rules under the 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 by said EOU as provided in Para 6.09 (a) of FTP.

- (d) **Eligible capital goods:** Capital goods for the purpose of the EPCG scheme shall include:
- (i) Capital Goods including in CKD/SKD condition thereof.
 - (ii) Computer systems which are a part of the Capital Goods being imported

- (iii) Spares, moulds, dies, jigs, fixtures, tools & refractories for initial lining and spare refractories; and
- (iv) Catalysts for initial charge plus one subsequent Charge.
- (v) Capital goods for Project Imports notified by CBIC.

(e) Ineligible capital goods include:

- i. Second hand capital goods
- ii. Any Capital Goods for generation/ transmission of power (including Captive plants and Power Generator Sets Of any kind) for:
 - Export of electrical energy (power);
 - Supply of electrical energy (power) under deemed exports;
 - Supply of power (energy) in their own unit, and
 - Supply/ export of electricity transmission services

(f) EO equivalent to 6 times of duty saved on capital goods - Time limit of 6 years: Import under EPCG Scheme shall be subject to an export obligation equivalent to **6 times of duties, taxes and cess** saved on capital goods, to be fulfilled in **6 years reckoned from date of issue of Authorisation.**

(g) Authorisation validity - 18 months: Authorisation shall be valid for import for **18 months** from the date of issue of Authorisation. Revalidation of EPCG Authorisation shall not be permitted.

However, in case the validity period for import expires during 01-02-2020 and 31-07-2020, the validity stands automatically extended by 6 months from the date of expiry. [Notification No. 57/2015-2020 dated 31-03-2020]

(h) IGST paid in cash - Not to be taken into account for net duty saved provided ITC not availed: 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.

(i) Restricted Imports – Approval of EFC required: Import of items which are restricted for import shall be permitted under EPCG Scheme only after approval from Exim Facilitation Committee (EFC) dt DGFT Headquarters.

(j) Restricted exports - Approval of EFC required: If the goods proposed to be exported under EPCG authorisation are restricted for export, the EPCG authorisation shall be issued only after approval for issuance of export authorisation from Exim Facilitation Committee at DGFT Headquarters.

(k) Eligible exporters: Following are eligible for EPCG scheme:

(i) Manufacturer exporters with or without supporting manufacturer(s)

ii) Merchant exporters tied to supporting manufacturer(s)

Name of supporting manufacturer(s) shall be endorsed on the EPCG Authorisation installation of the capital goods in the factory/ premises of the supporting manufacturer (s)

In case of any change in supporting manufacturer(s) the RA shall intimate such jurisdictional Customs Authority of existing as well as changed supporting manufacturer(s) the Customs at port of registration of Authorisation.

(iii) Service providers including service provider who is designated/certified as a Common Provider (CSP) subject to prescribed conditions.

(l) **Actual User Condition till export obligation fulfilled:** Imported capital goods shall be to Actual User condition till export obligation is completed and EODC is granted.

4.4.2 Export Obligation (EO):

Export obligation means obligation to export product(s) covered by Authorisation/ permission in terms of quantity or value or both, as may be prescribed/ specified by Regional or competent authority Export obligation consists of average export obligation and specific export obligation.

Specific export obligation (Specific EO) under EPCG scheme is equivalent to **six times of duty saved** capital goods imported under EPCG scheme, to be fulfilled in **six years** reckoned from date. Specific EO over and above the Average EO.

Average export obligation (Average EO) under EPCG scheme is the average level of exports made by the applicant in the **proceeding 3 licensing years** for the same and similar products. It has to be achieved within the overall EO period (including extended period unless otherwise specified).

4.4.3 Conditions applicable to the fulfilment of the Export Obligation (EO):

The following conditions shall apply to the fulfilment of EO: -

(a) **Fulfilment through export of goods or services:** EO shall be fulfilled by the (I-cough export of goods which are manufactured by him, or his supporting rendered by I-um, for which the EPCC authorisation has been granted.

(b) **EO is over and above average level of exports of last 3 years:** EO under the scheme shall be, over and above, the average level of exports achieved by the applicant **in the preceding 3 licensing years** for the same and similar products within the overall EO period including extended period, if any; except for specified categories. Such average would be the arithmetic mean of export performance in the preceding three licensing years for same and similar products.

(c) **25% less EO in case of domestic sourcing of capital goods:** In casa of indigenous sourcing of capital goods, 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.**

(d) **Shipments under AA/DFIA/ Drawback scheme or reward schemes – Also eligible:** Shipments under Advance Authorisation, DFIA, Drawback scheme or reward schemes under Chapter 3 of FTP; would also count for fulfilment of EO under EPCG Scheme.

(e) **Physical exports and specific deemed exports included:** Export shall be physical export. However, deemed exports shall also be counted towards fulfilment of export obligation.

(f) Supply of ITA-I items to DTA – Counted for EO: EO can also be fulfilled by the supply of ITA-I items to DTA, provided, realization is in free foreign exchange.

(g) Royalty payments – Counted for EO: Royalty payments received by the Authorisation holder in freely convertible currency and foreign exchange received for R&D services shall also be counted for discharge under EPCG.

(h) Payment received in rupee terms for such Service as notified in Appendix 5D shall also be counted towards discharge of export obligation under the EPCG scheme.

4.4.4 Calculation of export obligation:

In case of direct imports, EO shall be reckoned with reference to actual duty saved amount. In cage of domestic sourcing, EO shall be reckoned with reference to notional Customs ditties saved on FOR value.

4.4.5 Incentive for early EO fulfilment:

With a view to accelerating exports, in cases where Authorisation holder has fulfilled 75% or more of specific export obligation and 100% of Average Export Obligation till date, if any, in half or less than half the original export obligation period specified, remaining export obligation shall be condoned and the Authorisation redeemed by RA concerned. However, no benefit under para 5.21 of HBP shall be permitted Incentive for early EO fulfilment has been availed.

4.4.6 Reduced EO for Green Technology Products:

For exporters of Green Technology Products, Specific EO shall be 75% of EO. There shall be no change in average EO.

4.4.7 Reduced EO for North East Region and Jammu & Kashmir:

For units located in Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura and Jammu & Kashmir, specific EO shall be 25% of the EO. There shall be no change in average EO imposed.

Thus, the export obligation to be fulfilled can be summarised as under:

	Case	Export Obligation (EO)	Duty Saved
(A)	Imports under EPCG Scheme	Duties, taxes and cess saved on capital goods x6	Actual duty saved amount
(B)	Indigenous sourcing of Capital Goods	25% lesser than that in Item (A) i.e., Duties, taxes & cess saved x 4.5 times	Notional Customs duties saved on "FOR value"
(C)	For exporters of Green Technology Products	<p>➡ In case falling in Item (A): 7.5% of EO in Item (A) i.e., Duty saved x 4.5 times</p> <p>➡ In any other case: No change</p>	As applicable, as per above

(D)	For units located in Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura and Jammu & Kashmir	<p>➡ In ease falling in Item (A): 25% of EO in Item (A) <i>i.e.</i>, Duty saved x 1.5 times</p> <p>➡ In another case: No change</p>	As applicable, as per above
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4.4.8 Post Export EPCG Duty Credit Scrip(s):

- (a) Eligibility — Import on full payment of duty:** Post Export EPCG Duty Credit Scrip(s) shall be available to exporters who intend to import capital goods on full payment of applicable duties in cash and choose to opt for this scheme.
- (b) Remission of basic custom duty:** Basic Customs duty paid on Capital Goods shall be remitted in the form of freely transferable duty credit scrip(s).
- (c) EO — 85% of applicable Specific EO:** Specific EO shall be 85% of the applicable specific EO under the EPCG Scheme. However, average EO shall remain unchanged.
- (d) Pro rata remission:** Duty remission shall be in proportion to the EO fulfilled.
- (e) Use same as of SEIS/MEIS scrips:** These Duty Credit Scrip(s) can be utilized in the similar manner as the scrips issued under reward schemes can be utilised.
- (f) Other provisions:** All provisions of the existing EPCG Scheme shall apply insofar as they are not inconsistent with this scheme.

4.4.9 Checks to be exercised for EPCG:

- ✓ Fixation of export obligation.
- ✓ Actual user condition (Import of CG shall be subject to Actual user condition)
- ✓ Invalidation letter in case of domestic procurement of CG
- ✓ Block wise fulfilment of EO (Block of 1st-4th Year-50%, and 5th -6th year-Balance EO)
- ✓ Import of capital goods within the prescribed time limit and its installation.
- ✓ Monitoring of EO
- ✓ Duty payments and Penal action in case of failure to fulfil EO

4.3.5 Deemed Exports

"Deemed Exports" refer to those transactions in which goods supplied do not leave country, and payment for such supplies is received either in Indian rupees or in free foreign exchange.

4.3.5.1 Objective of Deemed Exports:

The objective of deemed exports is to ensure that the domestic suppliers are not in disadvantageous position vis-a-vis foreign suppliers in terms of the fiscal concessions.

The underlying theory is that foreign exchange saved must be treated at par with foreign exchange earned by placing Indian manufacturers on par with foreign suppliers. Besides this the objective is to provide a level playing field to domestic manufacturers in certain specified cases, as may be decided by the Government from time to time.

4.3.5.2 Areas of Deemed Exports:

Deemed exports broadly cover three areas.

- a) Supplies to domestic entities who can import their requirements duty free or at reduced rates of duty.
- b) Supplies to projects or purposes that involve international competitive bidding.
- c) Supplies to infrastructure projects of national importance.

4.3.5.3 Categories of Supplies

Supply of goods under following categories by a manufacturer and by main/ sub-contractors shall be regarded as "Deemed Exports":

Supply by manufacturer	Supply by main/sub-contractors(s)
Supply of goods against Advance Authorisation/ Advance Authorisation for Annual Requirement/ DFIA	Supply of goods to projects or turnkey contracts financed by multilateral or bilateral agencies/ Funds notified by Department of Economic Affairs (DEA), under International Competitive Bidding.
Supply of goods to units located in EOU/ STP/BTP/EHTP	Supply of goods to any project where import is permitted at zero customs duty as per customs Notification No. 50/2017Cus., dated 30-06-2017 and supply is made against International Competitive Bidding.
Supply of capital goods against EPCG authorization	Supply of goods to mega power projects against International Competitive Bidding (even if customs duty on imports made by such project is not zero). The ICB procedures should be followed. Supplier is eligible for benefits as specified International Competitive Bidding (ICB) is not mandatory for mega power projects if requisite quantum of power has been tied up through tariff based competitive bidding or if project has been awarded through tariff based competitive bidding.
	Supply of goods to UN or international organisations for their official use or supplied to projects financed by them.
	Supply of goods to nuclear projects through competitive bidding (need not be international competitive bidding).

4.3.5.4 Deemed exports - Other provisions:

4.3.5.5 Refund of drawback:

Refund of drawback on the inputs used in manufacture and supply under the said category can be claimed on 'AJJ Industry Rate' of Duty Drawback Schedule notified by

Department of Revenue from time to time provided no C'ENVAT credit has been availed by supplier of goods on excisable inputs or on Brand Rate basis upon submission of documents evidencing actual payment of basic customs duties.

4.3.5.6 Common conditions for deemed export benefits are given below:

- (i) Supplies must be to specified entity:** Supplies shall be made directly to entities listed above Third-party supply shall not be eligible for benefits/ exemption.
- (ii) Subcontractor may make supplies to main contractors:** In all cases, supplies shall be made directly to the designated Projects/ Agencies/ Units/ Advance Authorisation/EPCC Authorisation holder, Subcontractors may, however, make supplies to main contractor instead of supplying directly to designated Projects/ Agencies. Payments in such cases shall be made to sub-contractor by main-contractor and not by project Authority.
- (iii) Indian subcontractor may supply to Indian/ Foreign main contractor directly at project site – Name of sub-contractor must be indicated in main contract:** Supply of domestically manufactured goods by an Indian Sub-contractor to any Indian or foreign main contractor, directly at the designated project's/ Agency's site, shall also be eligible for deemed export benefit provided name of sub-contractor is indicated either originally or subsequently (but before the date of supply of such goods) in the main contract. In such cases payment shall be made directly to sub-contractor by the Project Authority.

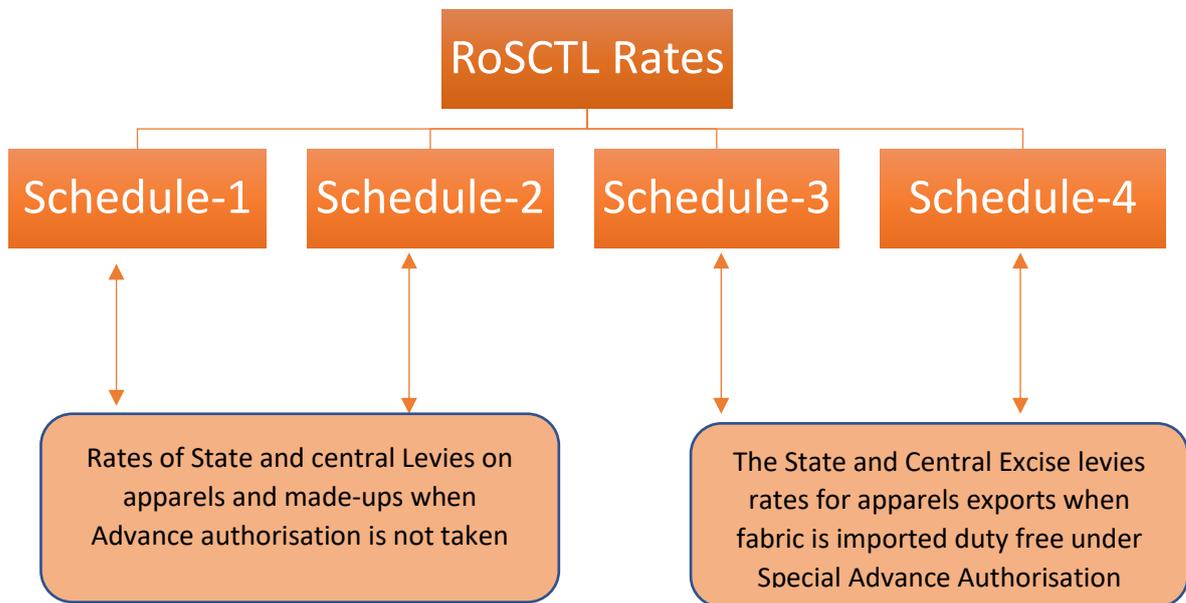
4.3.5.7 Audit Checks for TED/DBK

- ✓ Conditions of deemed export by verifying categories of supplies.
- ✓ Non-availment of CENVAT Credit.
- ✓ The claimed amount should be proportionate to the realised foreign exchange
- ✓ Time period for claiming TED/Drawback (within 12 months from supply or realisation, whichever is later)
- ✓ Interest payment in case of delay in making refund after issuance of approval letter.
- ✓ Brand rate/All Industry Rate (AIR) for DBK
- ✓ Late cut charges

4.3.6 Rebate of State and Central Taxes & Levies (RoSCTL)

The Ministry of Commerce introduced the RoSCTL scheme on 07 March 2019 for better compliance with WTO guidelines, and the old RoSL (Rebate of State Levies) scheme was discontinued. The RoSCTL Scheme is currently applicable only for exporters of apparel and made-ups where the exporters will be reimbursed the State Taxes and Levies, Central Taxes and Levies in the form of duty credit scrips issued by the DGFT, for all exports made on or after 1st April 2019. For exports done before 6th March 2019 and for exports done between 6th March 2019 and 31st March 2019, the Department of Revenue will give different rebates based on old RoSL scheme.

Exporters of Readymade garments and made ups like bed linen, pillows, curtains etc falling under Chapter 61,62 and 63 of Customs Tariff Act are eligible for this scheme.



The characteristics features of the scheme are stated below:

- The Ministry of textiles (MoT) has announced an additional Adhoc Incentive of 1% on Free-On-board Value (FOB).
- The additional Adhoc Incentive is calculated by the difference between new rebate on State and central taxes and levies scheme and the old rebate on State levies (RoSL) and Merchandise Exports from India Scheme (MEIS).
- The additional incentive up to 1% is given only when the benefits received in RoSCTL is lesser than the combine benefit received in RoSL and MEIS. The Benefit is calculated on FOB value of shipping bill.
- The period to claim the additional Adhoc Incentive is from 07th March 2019 to 31st December 2019.
- Previously under the Rebate of State Levies (RoSL) scheme, the Rebate was directly credited into the Exporter bank account as notified by the Ministry of textiles same as Duty Drawback.
- However, the benefit under the new RoSCTL scheme along with additional ad-hoc incentive is given in the form of duty credit scrips same as MEIS scrips. The RoSCTL scrips will be freely transferable in nature.
- Just Like MEIS scrips, RoSCTL licenses can be used for payment of Import duties or can be sold in the open market at a premium rate.

4.3.6.1 The procedures to avail the benefits of RoSCTL scheme are as follows:

- The applicant must fill an online application using a digital signature.
- Linking of E-BRC's is not required for applying the RoSCTL application.
- 50 shipping bills would be allowed in one application.

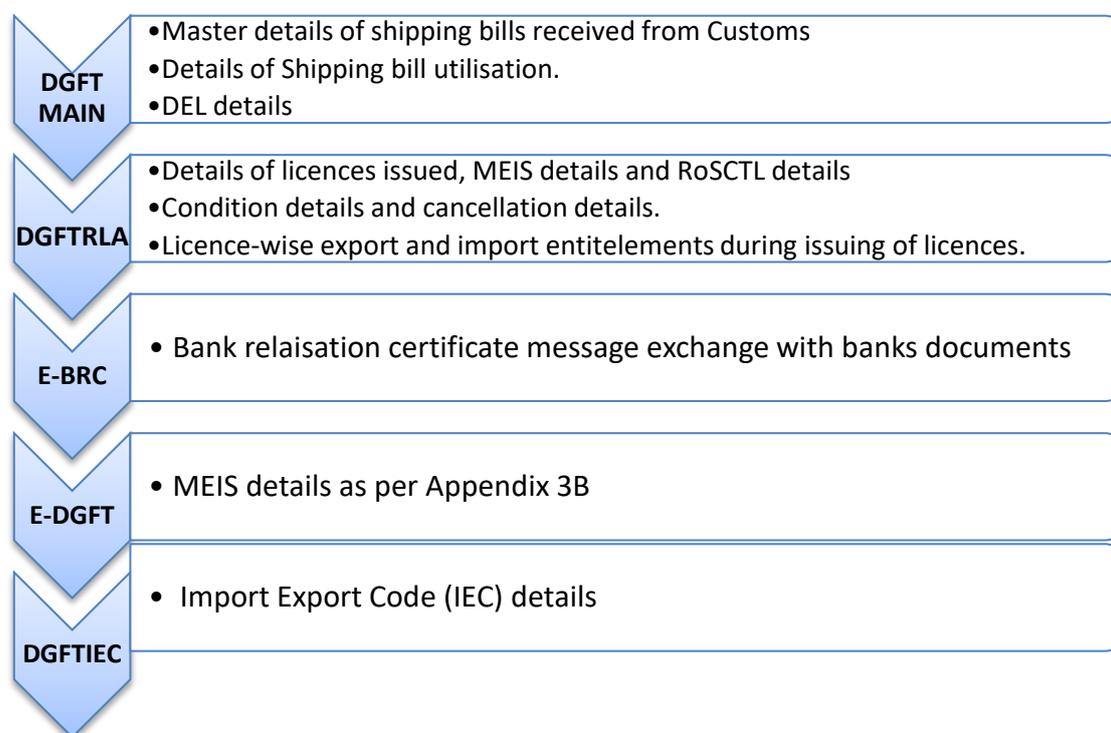
- As per Para 3.09 (HBP), facility of split scrips is available.
- The applicant can choose the port of registration for EDI ports from where export is made.
- Separate applications to be made for EDI and non-EDI ports.
- If the applicant is under DEL (Denied Entities List) list, he/she can't make an application.
- The Applicant can apply within one year from the date of uploading of the shipping bills from ICE Gate to DGFT server. Any application filed beyond this period would be time-barred as no late cut provisions are applicable.
- RoSCTL Licenses will be valid for 24 months from the date of issue.
- The rebate under the RoSCTL scheme is allowed subject to the condition that foreign remittance for the shipment made will be realized in stipulated time frame as per FEMA.
- If the sales proceeds are not realized within time allowed, then all the RoSCTL scheme benefits must be returned with 15% annual interest.
- All the original export documents along with shipping bills are required to be maintained by the exporter for a period of 3 years from the date of issuance of RoSCTL scrips.
- If the applicant fails to submit all the original documents asked by the licensing authority, then he/she will be liable to return entire benefit with applicable interest.

4.3.6.2 Risk perception

- ✓ Claim for ineligible exports based on misclassification
- ✓ Ineligibility of additional Adhoc incentives
- ✓ Issue of duty scrips without e-BRC fraught with risk of incorrect incentives on unrealised foreign exchange
- ✓ Non-realisation of foreign remittance for the shipment within stipulated time frame prescribed under FEMA.
- ✓ Non-levy of interest in case of delay in realisation of foreign remittance
- ✓ RoSCTL scrips are issued after recovering MEIS incentives already granted, and hence the possibility of non-deduction of MEIS incentive constitutes a risk.

4. DGFT's EDI System

4.1 DGFT's EDI system is part of e-Trade, an Integrated Mission Mode Project under National e-Governance Plan. This seeks to simplify procedures, introduce electronic delivery of services by regulatory and facilitating organisations, provide 24x7 access to users, increase transparency in procedures, reduce transaction cost and time and introduce international standards and practices in clearance of export and import of cargo. DGFT's EDI data is stored in five databases as illustrated below:

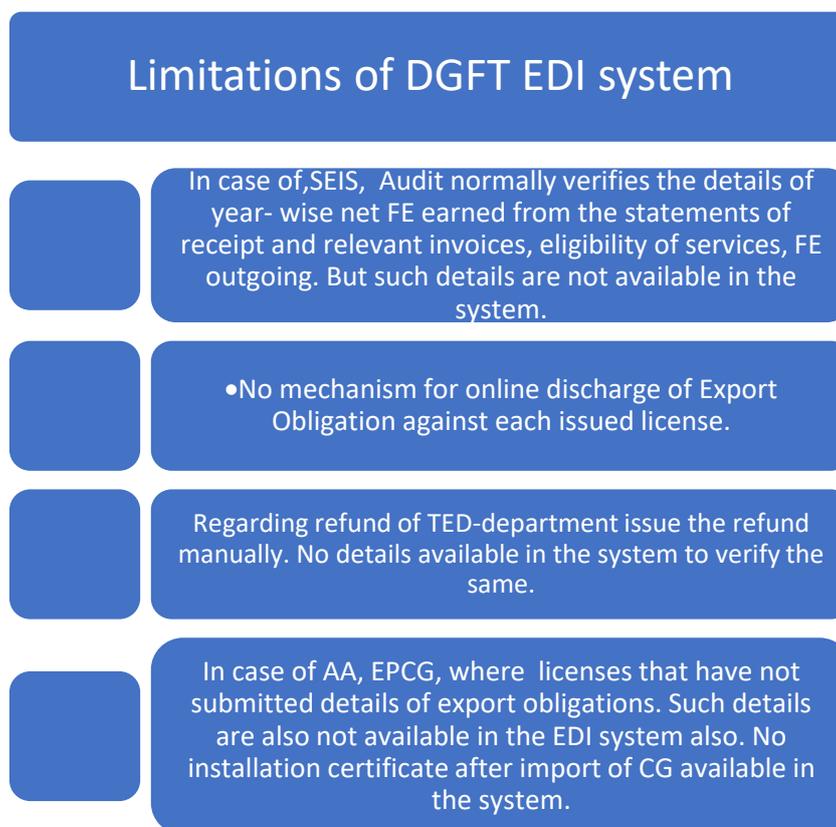


4.2 DGFT EDI system is a mix of centralised server application and distributed functions. All the data is stored at the Central Server at New Delhi. Data pertaining to each RLA is distributed to the respective licensing office for processing and the processed data is reverted to the Central Server. Filing of applications and processing under two licensing schemes are directly being done from Central Server over the web without transferring the data to RLAs.

MEIS and Rebate of State and Central Taxes and Levies (RoSCTL) schemes are fully automated and processed through DGFT system only.

Audit conducts the compliance audit of all the licenses/authorisation issued by the DGFT Such as MEIS, SEIS, AA, EPCG, TED refund. Out of all schemes, only MEIS and RoSCTL are fully automated, and the Department issue the scrips after verifying the prescribed rate from the system itself. All other licenses/authorisations are being

issued after verification of submission of appellant through offline mode. In view of this, audit verifies the physical records while doing the compliance audit. In DGFT EDI system, the following details are not available:



6.3 Audit Checks exercised through Data analysis

- Correct classification of item exported. Appendix 3B lists reward rates (2%,3%,5%, 7%) on various products ITC(HS) code- wise. Misclassification of items may lead to excess grant of scrips to the exporter.
- Correct levy of "Late Cut" for application filed beyond the due date.
- INR realisation of export proceeds from Asian Clearing Union (ACU), Nepal and Bhutan.
- Whether RoSCTL scrips are being issued as per the scheduled rates of State taxes and Central levies?
- Whether ad-hoc incentive at the rate of 1% under RoSCTL scheme is being embedded in the system?
- Whether foreign exchange rates updated for the purpose of valuation of imports & exports goods from time to time?
- Whether DEL list is being updated in case of addition and deletion of the cases?

Audit Checks in respect of Additional Director General of Foreign Trade

The following illustrative checks may also be exercised while conducting the audit of Apex entity such as the office of Additional Director General of Foreign Trade

1. Quality Complaints and Trade Disputes (QCTD)

Exporters need to project a good image of the country abroad to promote exports. Maintaining an enduring relationship with foreign buyers is of utmost importance, and complaints or trade disputes, whenever they arise, need to be settled amicably as soon as possible. Importers too may have grievances as well. In an endeavour to resolve such complaints or trade disputes and to create confidence in the business environment of the country, a mechanism is being laid down to address such complaints and disputes in an amicable way. The broad areas of audit examination would entail the following:

- Adequacy of mechanism available to address Quality Complaints.
- Conduct of meetings to resolve QCTD?
- Verification of Minutes of the meetings for complaints and disposal
- Age-wise pendency of QCTD

2. Certificate Management

To facilitate the management of various certificates issued by DGFT such as the Identity card, Free sale and Commerce Certificate, End User Certificate, and Status Holder Certificate, an importer/exporter may choose to apply for a certificate and manage. Pre-requisites as mentioned in Chapter 2, Chapter 3 and Chapter 4 of Foreign Trade Policy and Handbook of Procedures may be referred.

Regional Authority which has issued Nominated Agency Certificate shall monitor performance of such certificate holders based on half yearly returns to be filed by such agencies to the concerned RA. In case of non-filers of half yearly returns, RA will also inform DGFT to take appropriate action within 30 days for suspension/cancellation of Nominated Agency Certificate.

- Number of cases in which Nominated Agency Certificates issued by RA and their monitoring
- Whether half yearly returns have been filed by the agencies for verification of RA.
- Analysis of cases in which RA informed DGFT to take action within 30 days for suspension/cancellation of Nominated Agency Certificate?

3. Compliance of Policy Relaxation Committee

Policy Relaxation Committee (PRC) is also referred as Exemption from Policy/Procedures (EPP). DGFT may in public interest pass such orders or grant such

exemption relaxation or relief, as he may deem fit and proper, on grounds of genuine hardship and adverse impact on trade to any person or class or category of persons from any provision of Foreign Trade Policy (FTP) or any Procedures. While granting such exemption, DGFT may impose such conditions as he may deem fit after consulting the Committees as in the table given below:

Nexus with Capital Goods (CG) and benefits under Export Promotion Capital Goods (EPCG) Schemes	Export Promotion Capital Goods (EPCG) Committee
All other issues except Fixation / modification of product norms	Policy Relaxation Committee

- Cases in which RA forwarded a copy of the application along with a copy of the EPCG license to the Headquarters. EPCG Committee for its approval within seven days of the issuance of the license.
- Cases in which HQ EPCG rejected application for fixation of nexus is rejected on account of non-furnishing of documents/ information.
- Whether the licence holders have paid Customs duty together with 15% interest on such goods in case of rejection of application?
- Details of cases referred to HQ Policy Relaxation Committee (PRC). Age wise details of pending cases with PRC may please be furnished.

4. Importer-Exporter Code

Importer-Exporter Code (IEC), a 10-digit PAN based code, is a unique 10-digit code issued by DGFT to a person. IEC is mandatory to export any goods out of India or to import any goods into India unless specifically exempt. Permanent Account Number (PAN) is pre-requisite for grant of an IEC. Only one IEC can be issued against a single PAN.

DGFT has decided to use income tax PAN as IEC number i.e., IEC will be issued by DGFT with the difference that it will be alpha numeric (instead of 10 digits numeric at present) and will be same as PAN of an entity.

With the introduction of GST, GSTIN would be used for purposes of

- (i) credit flow of IGST on import of goods, and
- (ii) refund or rebate of IGST related to export of goods.

In view of this, it has been decided that importer/ exporter would need to declare only GSTIN (wherever registered with GSTN) at the time of import and export of goods. For residuary categories, UIN issued by GSTN and authenticated by DGFT will be used. For other, common number will be notified by DGFT.

An Importer -Exporter Code (IEC) is a key business identification number which is mandatory for export from India or Import to India. No export or import shall be made

by any person without obtaining an IEC unless specifically exempted. For services exports however, IEC shall not be necessary except when the service provider is taking benefits under the Foreign Trade Policy.

Consequent upon introduction of GST, IEC being issued is the same as the PAN of the firm. However, the IEC will still be separately issued by DGFT based on an application. The nature of the firm obtaining an IEC may be Proprietorship, Partnership, LLP, Limited Company, Trust, HUF, Society etc.

As per the Trade Notice No-1, dated 27th January 2020 regarding restoration of IEC, attention of the trade invited to restoration of IEC which have been suspended by the DGFT HQ in cases where more than one IEC were obtained against the same PAN or IEC was obtained with an incorrect PAN.

- What are the checks available with the department to verify the correctness of IEC?
- In how many cases, office of Addl DGFT noticed more than one PAN or obtained IEC with an incorrect PAN?

5. GRIEVANCE REDRESSAL

Under Foreign Trade Policy (2015-2020), DGFT has set-up a Policy Relaxation Committee under chairmanship of DGFT consisting of all Addl. DGFTs and Jt. DGFTs to look into the requests seeking policy relaxation or relief on grounds of genuine hardship and adverse impact on trade. Every exporter/importer has a right to seek and have an opportunity to make a representation to the Policy Relaxation Committee. Vide Trade Notification No. 14 dated 24.08.2016, Grievance Redressal Committees at HQ and in the offices of Zonal Additional DGFTs has been constituted for speedy disposal of pending grievances.

- Has Grievance Redressal mechanism put in place by the department?
- Age- wise analysis of pending grievance .

6. Export Obligation Discharge Certificate (EODC) Monitoring

Export obligation means obligations to export products cover by Advance authorisation or permission in terms of quantity, value or both as may be prescribed or specified by Regional or competent authority.

Procedure to be followed for getting EODC:

1. As evidence of fulfilment of export obligation, authorization holder shall furnish application in ANF 5 B with documents prescribed therein.
2. On being satisfied, RA concerned shall issue a certificate of discharge of export obligation to the EPCG authorization holder and send a copy to customs authorities with whom BG/LUT has been executed.

3. RA shall ensure disposal of such applications **within 30 days**. Shortcomings, if any, shall be pointed out in one go. **All correspondence, thereafter, shall relate to these deficiencies only. Fresh correspondence, if necessary, shall be within 15 days.** Once documents are complete, EO will be discharged within 30 days of receipt of complete documents /information.
4. **Process of issue of final discharge certificate certificate/ rejection shall be completed within a period of 90 days from date of receipt of initial request.** Applications that remain outstanding beyond a period of 90 days shall be reported to DGFT.

Now, Director General of Foreign Trade, New Delhi has developed software for EODC monitoring of Advance as well as EPCG authorizations issued by RAs. As per the guidelines (Policy Circular-16/2015-20, dated 9.1.2019), all Advance Authorisations and EPCG authorisations where EODC have not been granted shall be fed into the system. **This exercise needs to be completed by 31.1.2019 by all RAs. Data entered in this regard would be monitored on weekly basis.**

- Thus, EODC monitoring can be verified through RA-wise, scheme-wise details like number of cases pending or documents not submitted, number of cases where Deficiency Letters have been issued, number of cases where EODCs have been granted, number of cases where SCNs have been issued and number of cases where Orders-in-Original have been passed under adjudication procedure.
- Age wise pending EODC require to be verified
- Cases in which demand notices issued but refusal order not issued in time. Reason for such delay
- Number of cases in which demand notice not issued even after expiry of EO period, reason may also be intimated
- Number of cases in which Demand notice is still active but licenses have redeemed

7. Denied Entity List

Para 2.15 of Foreign Trade Policy stipulates that an exporter may avail the benefits of Authorisation and violates conditions laid down in such authorisation. If Exporter may fail to fulfil export obligation or fail to deposit the requisite amount within the period specified in demand notice issued by department or revenue/and or DGFT, he shall be liable for action in accordance with Foreign Trade (Development & Regulation) Act 1992 and the rules and orders made there under FTP and any other law for time being in force.

With a view to raising ethical standards and for ease of doing business, DGFT has provided for self-certification system under various schemes. In such cases, applicants shall undertake self-certification with sufficient care and caution in filling up information/particulars.

Any information/particulars subsequently found untrue/incorrect will be liable for action under Foreign Trade (Dev & Reg) Act 1992 and rules therein in addition to penal action under any other act/order. A firm may be placed under Denied Entity List (DEL) by the RA of DGFT under provision of Rule 7 of Foreign Trade (Regulation) Rules 1993. On issuance of such order, for reasons to be recorded in writing, a firm may be refused grant or renewal of licence, certificate, scrip, or any instrument bestowing financial or fiscal benefits. If a firm is placed under DEL, all new licences, scrips, certificates, instruments, etc. will be blocked from printing/issue/renewal. DEL orders may be placed under abeyance for reasons to be recorded, in writing by the concerned RA, DEL order can be placed in abeyance, for a period not more than 60 days at a time. A firm's name can be removed from DEL, by the concerned RA for reason to be recorded in writing, if the firm completes export obligation/pays penalty/fulfils requirements of Demand Notices issued by the RA/submits documents required by the RA.

In this regard, following should be checked

- Whether list of exporters under DEL prepared?
- Is there any mechanism to update (Addition/Deletion) the DEL in case non-fulfilment of export obligation or duty evasion etc if any as of March 2021?
- Are there any instances noticed in which licenses issued without observing DEL?
- List of DEL order under abeyance may be verified on test check basis to verify the compliance of the exporters.
- Whether DEL order under abeyance for a period more than 60 days at a time.
- Whether reasons were recorded in writing in case of removal from the DEL?

8. Fixation of SION/Adhoc Norms:

The Input Output norms for an export product for which there is no SION (Standard Input Output Norms) by DGFT is treated as Ad hoc norm. Regional Authority (Local DGFT office) may also issue Advance Authorization based on self-declaration by an applicant in such cases of Adhoc norms. Wastage so claimed by the applicant shall be subject to wastage norms as ratified by the Norms Committee. The applicant shall submit an undertaking to abide by the ratification of the Norms Committee.

Time limit for fixation of norms-by-Norms Committees

- (i) Where norms are not finalised by Norms Committee within four months from the date of receipt of complete application along with documents / technical details as per Appendix 4E, norms as applied for may be treated as final.
- (ii) In case application for fixation of adhoc norms / SION is rejected on ground of non-furnishing of required documents/ information to Norms Committee or technical authority represented in Norms Committee, authorisation holder shall be liable to pay customs duty with interest as notified by DoR and amount as per paragraph 4.49(a)(ii).

Norms Committees shall also function as recommendatory authority for notification of SION and DGFT may notify such norms from time to time. Exporters / EPC shall provide data to the Norms Committee for the fixation of SION for the export product within three months of such request made by Norms Committee. Norms Committee shall endeavour to notify such adhoc norm(s), if not notified already, within six months of the ratification of such adhoc norm(s). It is mandatory for industry / manufacturers/ EPCs to provide production and consumption data etc for the past three years, as may be required by DGFT for fixation of SION. Otherwise, applicants shall not be allowed to take benefit of Advance Authorisation scheme for taking repeat Advance Authorisations on self-declared basis. Norms Committee may also seek data from Central Excise (CBEC).

Following issues to be seen:

- Cases in which RA issued Advance Authorizations based on self -declaration of applicant.
- Age-wise pendency of fixation of Norms.
- Number of cases in which application for fixation of adhoc norms / SION were rejected on ground of non-furnishing of required documents/ information to Norms Committee.
- Cases in which licenses were redeemed even in absence of fixation of norms

9. Monitoring of Realization

RLA shall monitor all such cases wherein scrips have been issued without BRC is submitted within 12 months from the date of issuance of Scrips. In case no RBI extension is produced, RA shall initiate action for recovery of the duty credit amount.

- Is there any mechanism available to monitor BRC?
- Number of cases in which BRC not submitted.
- Number of cases in which recovery action has been initiated. Reason for non-recovery of action may please be intimated.

10. Developing District as export hub

Every District has products and services which are being exported, and can be further promoted, along with new products / services, to increase production, grow exports, generate economic activity and achieve the goal of **Atma Nirbhar Bharat, Vocal for local and Make in India**. Department of Commerce, through Directorate General of Foreign Trade (DGFT) is working with the State / UT Governments in a phased manner to achieve this objective. District Export Promotion Committees (DEPCs) require to be constituted in each District. DEPCs may be headed by DM/Collector/DC/District Development Officer of the District and co-chaired by designated DGFT Regional Authority. Regional Authorities of DGFT are coordinating with the District Administration in each District to convene DEPC meetings and take steps to ensure

that deliberations on the draft District Export Action Plans are held in these meetings and based on the inputs received from all the stakeholders, these plans are adopted by the DEPCs for its execution. Draft District Export Action Plans have been prepared by DGFT RAs.

- Whether export potential districts have been identified?
- How many district- wise outreach programs conducted during the audit periods to reach the producers/manufacturer?
- Whether district level export data have been prepared?
- What budget is being allocated by the Ministry year -wise to achieve this scheme?
- Analysis of target and achievements

11. Internal Audit

DGFT vide their policy circular dated 21 October 2003, circulated to RAs, stated that about 5 to 10 *per cent* of the cases, selected on random basis may be selected to post audit by Internal audit Unit and requisite follow-up action may be taken immediately to review the case at appropriate level. This required RA to create internal audit wings in their respective jurisdiction for audit activities.

- Whether Internal Audit wing has been formed for post -audit of licenses?
- Whether Internal Audit manual prepared by the department.
- Period up to which internal audit of each license completed and its examination
- Analysis of the details of outstanding observations and reasons for non-compliance.

12. Adjudication of SCN related to Export Promotion Schemes under FTDR Act, 1992

In case of Export Promotion Schemes, the adjudication powers shall be as under: -

Designation of Officer	Value of goods in relation to which the powers may be exercised.
Additional Director General of Foreign Trade	Without limit
Joint Director General of Foreign Trade	Up to Rs.25 crore
Deputy Director General of foreign Trade / Assistant director General of Foreign Trade	Up to Rs.10 crore

- Whether SCNs have been issued for non-fulfilment of export obligation under the EPCG scheme after completion of the Export Obligation (EO) period. Cases of non-issuance of SCNs along with reason may please be intimated.
- Number of cases in which adjudications are still pending.
- Is there any mechanism to transmit electronically the adjudication orders passed by RLAs to Customs (Customs EDI application-ICES)

13. Appeal Cases

Section 9(5) of FTDR Act stipulates that an appeal against an order refusing to grant, or renew or suspending or cancelling, a [license, certificate, scrip or any instrument bestowing financial or fiscal benefits] shall lie in like manner as an appeal against an order would like under Section 15(Appeal against the decision or order made by officer of DGFT within 45 days from the date of order is served). Section 15(1)(b) also provides for further extension of 30 days period by Appellate Authority in case of appellant was prevented by by sufficient cause from preferring the appeal within the aforesaid period. Further, if the Appellate Authority is of opinion that the deposit to be made will cause undue hardship to the appellant, it may, at its discretion, dispense with such deposit either unconditionally or subject to such conditions as it may impose.

In this connection following issues to be seen:

- Whether appeal preferred by appellant within the time-frame prescribed u/s 15 of FTDR Act?
- Age- wise analysis of pending appeal cases pertaining to the audit periods (i.e. OB, No of cases addition during the year, finalised cases during the year and CB)
- Revenue involved due to non-finalisation of appeal cases (year wise)

14. Internal controls

- Monitoring mechanism of reporting to Board through the Monthly Performance/Technical Registers (MPRs/MTRs).
- Whether the control registers (SCN control Register, 335J register, Transit register, unconfirmed demand register, confirmed demand register) are properly maintained and kept in updated manner with all columns filled in and are verified on monthly basis with the signature of competent authority.
- Whether all sub-regional offices under the Zonal office are being properly co-ordinated and whether all MIS reports are being sent to HQ combined after incorporating the reports of sub-regional offices? If not, reason for the same may please be communicated.

15. Expenditure Audit

15.1 Compliance of laws/rules related to Expenditure:

1. Contracting and procurement

- Verify whether procurement was carried out as per extant rules and in accordance with delegated financial powers.
- Verify whether financial propriety was ensured during the stages of tendering, evaluation, and award of contract.

2. Establishment audit

Verify whether payments in respect of salaries and other entitlements were in accordance with the relevant rules and instructions.

3. Audit of sanctions

- Verify whether the sanction is within the general or express powers delegated to the sanctioning authority.
- Verify whether the criteria for sanction such as - availability of funds, determination of physical targets, objects of expenditure and accounting procedure- have been adhered to
- Verify whether the sanction is not split to avoid obtaining sanction of a higher authority.
- Verify whether sanction is conflicting with general principles of public sector financial management or other orders /instructions.

15.2 Details of records to be examined for expenditure audit

1	Examination of the cash book/s (If more than one cash book is kept, mention the various cash books individually by name)
2	Verification of withdrawals from and deposits into Government account with reference to PAO's figures/records
3	Accounts of receipts (Provisions for levy/collection, stock register of receipt books, counterfoils of receipts issued, tracing of receipts into cash book, assessments and raising of demands on due dates, maintenance of demand, collection and balance register)
4	Dead Stock Register
5	Register of empties
6	Register of stationery articles
7	Register of books and periodicals
8	Stamps account, if any
9	Log books and diaries of Government vehicles and machinery
10	Establishment Pay Bills
11	Register of Undisbursed pay and allowances
12	Travelling Allowance Bills
13	Register of advances including the recoveries thereof promptly
14	Service Books/Service Rolls including leave accounts

15	Departmental Inspection/Internal Audit Reports and action taken thereon
16	Action taken on the outstanding paragraphs of the previous Inspection Report/s including paragraphs closed subject to local verification
17	Annual Reports/Administrative Reports of the office/unit/institution
18	Reports on Performance of the Department/Office by any authority other than Audit (Specify)
19	Pension cases for the last two years